

THE SPIRIT OF THE LAW: THE HAUNTING OF U.S. FEDERAL INDIAN LAW  
IN THE CONTEMPORARY WESTERN

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# THE SPIRIT OF THE LAW: THE HAUNTING OF U.S. FEDERAL INDIAN LAW IN THE CONTEMPORARY WESTERN

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The figure of the Native Ghost, as both a character and as a narrative motif, has been a deeply rooted part of the American literary canon since its inception. The critical force of the figure has typically been located within the United States settler colonial psyche, projecting a particular set of uniquely American cultural anxieties about property and conquest, and seeking to quell those anxieties with reminders of the disappearance of Native peoples. This type of analysis, while fruitful for understanding many generative literary works, becomes problematic when it encounters contemporary texts, particularly those by Native authors. In the logic of this analysis, when Native authors write literary ghosts, they are participating in the imaginative disappearance of Native peoples.

This dissertation reads four contemporary examples of the Native ghost, two by Native authors and one by a non-Native, alongside formative cases in the body of federal Indian law. The texts are all contemporary westerns. I have confined myself to this genre because nowhere are the stakes of the narrative of Manifest Destiny more clearly defined; yet the Native ghosts in these texts are not merely the projections of coloniality. Rather, they represent a salient critique of United States federal Indian law and its ongoing effects in Indian country. By relocating the force of this critique from

the settler colonial mind to the ghostly figure itself, my analysis comprehends the Native ghost as a resistant figure, creating space for an understanding that goes beyond traditional image studies and constitutes an ongoing decolonial critique.



## BIOGRAPHICAL SKETCH

Lauren Alexandra Harmon received Bachelor of Arts degrees from Wake Forest University in English and Psychology, and her Master of Arts from University of Virginia's department of English.

For Joshua and Willa: to one bright future

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## PREFACE

In 2015, Alejandro Iñárritu released *The Revenant* (Leonardo DiCaprio) to nearly universal critical praise and three Oscars, including Best Actor and Best Director. The film, loosely based on the biography of frontiersman Hugh Glass, follows the protagonist through the wilderness of the American West as he, after being attacked by a bear and left for dead, tracks the man who killed his half-Pawnee son Hawk (Forrest Goodluck) and left Glass himself in a shallow grave.

In one way, the plot of *The Revenant* is a classic revenge tale typical of the American Western. However, Iñárritu and especially DiCaprio both publicly positioned the film as a memorial to Native genocide.<sup>1</sup> And in fact the film does gesture toward this stated aim. Although Glass's story is always foregrounded, in a parallel plot an Arikara chief named Elk Dog (Duane Howard) searches for his daughter, Powaga, kidnapped by an unnamed white man. In a scene between the white fur trappers with whom Glass starts his journey and the chief, Elk Dog delivers a speech censuring the trappers for European depredations against Natives:

You stand there and talk to me about honor?...You all have  
stolen everything from us. Everything! The land. The animals.  
Two white men snuck into my village and took my daughter,  
Powaga. (Iñárritu)

This short speech resists the Western genre's typical portrayal of Native people as war-hungry savages, and suggests an equivalence between Elk Dog and Hugh Glass,

both of whom face seemingly impossible odds for the sake of their children. Likewise, Glass's marriage to an unnamed Pawnee woman (Grace Dove)—already deceased at the beginning of the film—and his obvious tenderness toward his half-Pawnee son are meant to draw affinities between the film's Native and Non-Native characters.

Despite these efforts to acknowledge Native genocide, in fact the film insists visually and thematically on the inevitable disappearance of Native life and people. For example, though the title of the film refers to both Glass and his deceased wife, the portrayal of the two characters is tonally different. Glass, as a revenant, rises again and again from what could be his grave (first from the grave dug for him by his betrayers, then from the belly of a dead horse, and a burning wikiup). The suggestion is of struggle and durability; in other words, Glass emerges as the archetypal frontiersman who struggles against the wilderness and prevails. His wife, on the other hand, is elegized in the film. Her ghost appears when Glass is on the brink of death, providing him with the moral strength to persevere. In one memory, She floats above Glass's head, gradually disappearing even as she narrates a story about a tree with strong roots; the next shot cuts to a mountainous stack of buffalo skulls.

Perhaps it is fair to say that these elegiac images do indeed “memorialize” Native genocide. However, they also and equally subscribe to the narratives of inevitability and historicity with which that genocide is often imbricated. Though the ghost of the protagonist's dead Pawnee wife visits him periodically, her muteness a testament to the permanence of her passing. She was killed during a raid by U.S. troops; the message seems to be that while Native genocide was regrettable, its real consequences

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<sup>1</sup> For a transcript of DiCaprio's Oscar Acceptance speech that highlights these issues,

lie in the psychic pain of its white progenitors and victims. One “revenant” is a figure for survival, the other simply for disappearance.

*The Revenant* is far from the first filmic or literary depiction of Native people as ghostly; in fact, the Native Ghost is a literary topos with a long history in American letters. Renee Bergland’s 2000 book *The National Uncanny* centers around the figure of the Native ghost, and argues that throughout the American literary canon, Native ghosts have appeared as placeholders for the narrative motif of the disappearing Indian. Her analysis tracks how the figure of the Native ghost has been deployed through American literary history, beginning with some of the earliest examples of American colonial literature, and ending with contemporary examples from Native writers. For Bergland, the figure of the Native ghost projects a particular set of uniquely American cultural anxieties about property and conquest, and seeks to quell those anxieties with reminders of the disappearance of Native peoples.

Bergland writes, compellingly, that “By focusing almost exclusively on those who perished, early American writing enacted a literary Indian removal that reinforced and at times even helped to construct the political Indian Removal. American poems, fictional narratives, histories, philosophical and scientific essays, and public documents denied Indian survival as they mourned (or occasionally celebrated) Indian dispossession and extinction” (3).<sup>2</sup>

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see <http://oscar.go.com/news/winners/watch-leonardo-dicaprios-acceptance-speech-for-best-actor-2016>

<sup>2</sup>See, for example: Kavanagh, Sarah Schneider. "Haunting Remains: Educating a New American Citizenry at Indian Hill Cemetery." *Phantom Past, Indigenous Presence: Native Ghosts in North American Culture and History*. By Colleen E. Boyd and Coll-Peter Thrush. Lincoln: U of Nebraska, 2011. 151-80. Print.

*The Revenant* is an example *par excellence* of the “ghosting” of Native American peoples as a way to relegate them to the realms of history and imagination rather than engaging the ongoing consequences of Native genocide. Those consequences, aside from the massive loss of life on the post-invasion North American continent, range from diminished or extinguished land tenure to public health crises on reservations to the loss of sovereignty and autonomy by Native communities.<sup>3</sup> In *The Revenant* and numerous texts before it, the Native ghost acts to naturalize these dispossessions by figuring the genocide of Native people as a “disappearance.”

Elsewhere Bergland writes that the “ghosting of Indians is a technique of removal. By writing about Indians as ghosts, white writers effectively remove them from American lands, and place them, instead, within the American imagination. One result of the internalization of Indians is that the American individuals who ‘contain’ Indians thereby constitute themselves as representative Americans, and even as representative Americas” (4). Such a reading is seductive, not least because it proposes a national literature that, even as it is internalized in the American imaginary, can also be mapped onto the political realities of colonial policy. It relies heavily not on specific, contingent contextualization, but instead on a symptomatic reading of ghosts as a “dynamic of unsuccessful repression,” (5).

In other words, the Native Ghost is the figure through which, stripped of their

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<sup>3</sup> See Stannard, David E. *American Holocaust: Columbus and the Conquest of the New World*. New York: Oxford UP, 1992. Print. And Thornton, Russell. *American Indian Holocaust and Survival: A Population History since 1492*. Norman: U of Oklahoma, 1987. Print.



political and historical contexts, Native people are interpreted as overdetermined signifiers always of the same ailment: Euro-American guilt. This overdetermination is what leads Bergland, in her introduction, to make the claim that the figure has no real power to resist its own canonical interpretation, no matter why and by whom it is deployed. She writes, for example, that she offers

many examples of works that try to resist narratives of nationalization, and to use Native American ghosts as figures of such resistance. Quite a few of these counter nationalist uses of the ghost metaphor have been authored by Native Americans. But the closer we look, the clearer it becomes that when Native Americans figured themselves as ghostly, they gained rhetorical power at the cost of relinquishing everything else. When Native people called on their forebears as vengeful ghosts, they acknowledged that the battles had already been lost, that the voices that inspired them were among the dead. It makes sense that such Native appeals to the dead would be preserved and emphasized within American nationalist literature. (3-4)

However, there are a number of texts in which the ghostly Native defies this literary “removal” and in fact acts to both to resist narratives of colonization and draw attention to colonization’s ongoing effects. It may be useful here to think of haunting, as sociologist Gordon Avery does, as a mode of social memory. Haunting, he argues, forbids us from forgetting our shared social history of racial and colonial violence. In his formative 1997 book *Ghostly Matters*, he writes, “The presence of the ghost informs us that the over and done with ‘extremity’ of a domestic and international

slavery has not entirely gone away, even if it seems to have passed into the register of history and symbol.” (168) It is easy to see how this interpretation might be extended to include Native genocide, as well. Avery offers a reading of the ghostly figure that suggests a kind of collaboration between historicity and social anxiety, claiming that “If haunting describes how that which appears to be not there is often a seething presence, acting on and often meddling with taken for granted realities, the ghost is just the sign, or the empirical evidence if you like, that tells you a haunting is taking place. The ghost is not simply a dead or missing person, but a social figure, and *investigating it can lead to that dense site where history and subjectivity make social life.*” (8; emphasis added)

This line of analysis suggests that ghostly projections are mutable in that they respond both to history *and* the subjectivity of a) the haunted or b) (more relevantly to this study) she who deploys the figure of the ghost in literature or elsewhere. This distinction is critical for the current project, which will suggest that the Native ghost is indeed able to shift in order to respond to changing historical junctures and differing epistemological positions. This dissertation will offer a reading of the literary figure of the Native ghost that is both historically and legally contingent, and invests that figure with considerable potential to affect imaginative and political outcomes. What is more, I will suggest that Native ghosts signify radically differently when penned by Native authors, and to attend to those differences is necessary to understand how the figure might be politically effectual (and to why Native authors would use such a figure in the first place). In particular, I will read four examples of the Native ghost alongside four foundational cases of federal Indian law in order to show how these

ghosts attend, critique, and revise legal and political imaginative possibilities for Native people. That is, in each of the examples I offer, the figure of the Native ghost is deployed not simply as the Vanishing American—a metaphor for Native “extinction”—nor as a projection of the colonial psyche.

Why read these figures alongside particular cases in federal Indian law? First, as I’ve said, the goal of this project is to mark the potential of the Native ghost to respond to specific political and historical formations, both to critique and help redefine them. In order to make this case effectively, it is necessary to point toward moments that are both historically specific and have ongoing consequences for Native people and communities, and demonstrate how the Native ghosts imagined by the authors represented here respond. More particularly, as Philip P. Frickey has remarked, “it is plain to anyone who will look that federal Indian law is the law governing the colonization and displacement of the indigenous peoples of this continent by Europeans” (Frickey 1974). Frickey suggests this uncomfortable reality as one reason federal Indian law is understudied in legal scholarship: it is an indictment of the myth of American exceptionalism and a testament to the ongoing legacy of colonialism in the United States.

Furthermore, legal scholar Eric Cheyfitz has pointed out that the context of federal Indian law “provides...the crucial missing context in the articulation of a US Native American literary history” (Cheyfitz 426). That is, in order to adequately interpret American Indian literatures, one must work to understand the ongoing colonial legal situation to which they respond. For the purposes of this project, we will see that the texts treated here do indeed respond to particular historical and legal formations

enacted by federal Indian law and often offer imaginative alternatives to their premises and conclusions. These responses and alternatives are imagined, in these texts, through the figure of the Native ghost.

Reading this way, it is possible to emerge from the trap of overdetermination in which the Native ghost signals the state of Native life as always already conquered and extinct. Because federal Indian law is still good law, the responses to it imagined in these novels have ongoing resonance for debates about the status of Native land, sovereignty, and identity, to name a few of the legal issues on which this project will touch. As a result, the ghosts we will meet in the following pages resist rather than recapitulate the narratives of conquest and Manifest Destiny that have sequestered Native people in the U.S.'s mytho-historical frontier past.

The texts treated in this project are four contemporary Westerns. I have confined myself to this genre because nowhere are the stakes of Manifest Destiny more starkly delineated. Just as trenchantly, nowhere are departures from that narrative more clearly undertaken and observed. It would be difficult to imagine a genre more attuned to the vicissitudes of the settler-colonial psyche; that is, it would make perfect sense to see Native ghosts in this genre that act as a return of the repressed. And it would equally make sense to see those spirits narratively quelled or quashed.

For this reason, the Western strikes me as a particularly rich site from which to examine the contemporary deployment and power of the Native spectral figure. Much of American writing, but particularly the American Western, has always grappled with and interpreted American political realities and made them square with the national story. If one understands, as I do, the body of federal Indian law as perhaps the

ultimate expression of the Westerns narratives of conquest and Manifest Destiny, then one may begin to see the connections between the ghosts that haunt contemporary Westerns and the ghosts that haunt the (post)colonial state as articulated within federal-tribal relationships.<sup>4</sup> In this way, haunting represents not only fear and anxiety on the part of, or rather embedded within, dominant discourse, but in fact presents the possibility for radical change. The specter offers a generic critique that demonstrates the real effects of seemingly marginalized figures in a genre that would like nothing more than to conjure them away.

Part and parcel of this critique is not only to offer a critique of the colonial problems of federal Indian law, but an effort to recontextualize the issues that law adjudicates in order to provide alternative, anti-colonial understandings of them. In this respect, the Native ghost is a particularly forceful topos because of the vast differences between the role of ghosts in Euro-American and Native contexts. While for Euro-Americans the figure of the ghost might very well be an acknowledgement that the figures that inspire are “already among the dead,” in works by Native authors ghosts are just as often figured as active presences with ongoing roles in personal and community life.<sup>5</sup> For this reason I have chosen two texts—Cormac McCarthy’s *Blood Meridian* and Jim Jarmusch’s *Dead Man*—by Euro-American authors/directors in

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<sup>4</sup> Following Cheyfitz, the parenthetical (post) when referring to the colonial situation in Indian law and Indian country in this dissertation indicates the ongoing colonial relationship between the federal government and the tribes, in which Indians are both US citizens and members of colonized client states of the US.

<sup>5</sup> Examples of this are too numerous to name, but see for example Adelle, Hedge Coke Allison. *Rock, Ghost, Willow, Deer: A Story of Survival*. Lincoln: U of Nebraska, 2004. Print.

Or Driskill, Qwo-Li. *Walking with Ghosts*. Cambridge: Salt Pub., 2005. Print.

which Native ghosts *critique* specific nationalist formations predicated on federal Indian law, and two texts—Anna Lee Walters’ *Ghost Singer* and Leslie Marmon Silko’s *Almanac of the Dead*—by Native authors in which Native ghosts provide alternative frames and re-imaginings of possible futures that *go beyond* the ongoing colonial strictures imposed by that body of law.

In so doing I hope to answer two critical calls. The first is Eve Sedgwick’s invitation to move beyond “paranoid reading” and toward readings that might be more attuned to “unpack the local, contingent relations between any given piece of knowledge and its narrative/epistemological entailments for the seeker, knower, or teller” (124). This challenge exists simultaneously on two registers. First, there is simply the important work - work that cannot be attended in a purely symptomatic understanding of the spectral Native figure - of discovering the “contingent relations” between Native ghosts and the specific historical and political contexts that produced them. Secondly and relatedly, in the tacitly Freudian reading of the ghost that suggests spectral Natives as projections of repressed colonial guilt, ghosts are always caught in a dialectical opposition: both alive and dead, they must exist as a “trace” that exposes the fragmented Western conscience and consciousness. There is no space in such a formulation for a Native understanding of the social role of ghosts, another contingent relation which, to my mind, must be examined when reading ghostly figures imagined by Native authors. I will argue that when Native ghosts are penned by Native authors, they often participate in or result from non-Western understandings of what the “ghostly” entails. For the two Native authors discussed here, ghosts are not

necessarily representations of loss or even manifestations of “the living dead,” but ancestors whose lives continue to have continuity. In other words, they are markers of presence rather than absence, and as such generate new possibilities for imagining Native survival in the face of ongoing colonial violence.

This is not to say that I have been able, or willing, to completely excise the practices most closely associated with the “hermeneutics of suspicion” in this project. Particularly in my analyses of legal texts, I have found it useful and necessary to consider and critique what violences are obscured by language. However, I have understood the figure of the Native ghost here not only as a critique of specific legal-historical matrices, but also as a generative figure that creates or enacts alternative epistemologies and interpretations. This is particularly true of the two Indigenous novels I read here, in which ghosts not only presciently respond to particular historical crises for Native people (the dispossession of land, and of ancestral remains), but offer ameliorative frameworks for understanding the concepts that underpin those crises.

In approaching the Indigenous texts I read in this way, I keep in mind Linda Tuhiwai Smith’s exhortation to seek methodologies that are “decolonizing.”

Every issue has been approached by indigenous peoples with a view to *rewriting* or *rerighting* our position in history. Indigenous peoples want to tell our own stories, write our own versions, in our own ways, for our own purposes. It is not simply about giving an oral account or a genealogical naming of the land and the events which raged over it, but a very powerful need to give testimony to and restore a spirit, to bring back into existence a world fragmented and dying. The sense of history

conveyed by these approaches is not the same thing as the discipline of history, and so our accounts collide, crash into each other. (Smith 28)

I hope to offer an account that, in taking seriously Indigenous epistemological positions, “crashes into” western legal historical understanding. Thus many of my readings are reparative in nature, despite the deep and abiding violence attendant to any discussion of federal Indian law and policy.

Secondly, and relatedly, I hope to attend to Joshua Bellin’s concern that so-called “image studies”—that is, studies that examine the *images* of American Indians in literature (and presumably elsewhere) rather than the contributions that American Indians have made to literature—too often recapitulate the discursive disappearance of Native people by suggesting that “it makes no difference what they [Indians] were, for they could only have been constructed as savages; and it makes no difference that they were, for they were powerless to contest their construction (and destruction)” (Bellin 2). ). In other words, image studies have insisted on looking away from the presence of Native People and toward an embodiment of the image of Native People, which can only be a cipher or stereotype. Bellin warns of this recursive violence even in studies that focus on deconstructing the image of the savage or noble Indian, because even a deconstruction of a reified Indian does not necessarily lead beyond the text to historical or contemporary Indian people.

Bellin, in fact, points to an earlier study of the Native ghost, Susan Scheckel’s *Insistence of the Indian* to suggest that image studies “ultimately agree with the literary tradition they critique that Indians, who lived everywhere in America—as opposed to the reconstructed, mythologized, ghostly, reified “Indian”—are no more



relevant to the reader than they were, or are, to the nation and its literature” (Bellin 3).

This dissertation is, in part, an attempt to conduct an “image study” that acknowledges American Indian contributions to American literature as crucially important to both understanding and revising the colonial and mythological valences of that literature. It is an attempt to engage decolonizing methodologies in order demonstrate that the Native ghost need not be an overdetermined figment of the U.S. colonial imagination, but can in fact be a vector for social change and epistemological re-imaginings. It can be a revisionary figure that both critiques and creates alternatives to the colonial logic of federal Indian law and policy. As such, this project is an effort toward what Bellin calls an “intercultural literary criticism” that attends not only to how the literary and filmic images of Indians have been shaped by colonial and neo-colonial imaginings, but how those images (particularly, but not exclusively, when deployed by American Indians themselves) shape the trajectory of American literature, even in arguably its most foundational exceptionalist genre.

The first two chapters of the dissertation focus on works by Euro-Americans and demonstrate that the Native ghosts in each of these pieces move beyond a symptom of repressed colonial guilt and instead enact a trenchant critique of particular moments in the history of colonialism, moments that are best embodied in a key case and piece of legislation in federal Indian law. The second two chapters treat works by Native writers, and demonstrate how the figure of the Native ghost in those works not only critique salient moments in federal Indian law, but go further to offer Indigenous, decolonial political alternatives for thinking through possible futures.

Chapter one will focus on Cormac McCarthy’s 1985 novel *Blood Meridian*

alongside the foundational Supreme Court case *Johnson v. M'Intosh*. [This chapter will demonstrate that](#) Justice John Marshall's decision to bar private citizens from purchasing lands from Native peoples, drawing a distinction between aboriginal and [absolute](#) title, provides the background for the brutal colonial violence of McCarthy's novel. [The chapter will go on to discuss how McCarthy's spectral Native characters,](#) rather than becoming emblems of manifest destiny, become manifestations of the colonial violence wrought under the auspices of federal Indian law. Thus, in many ways, this novel provides the essential ground for my discussion of hauntings in other contemporary westerns: McCarthy's protagonists are not heroes but violent aggressors, and that violence haunts them and the body of law they are authorized to enforce. McCarthy's spectral natives call attention to the realities of colonial violence *and* the ways in which it cannot account for the totality of Native lives under its regime. In other words, this chapter hopes to offer a condensed account of how the specter of native communal life has been conjured away through appropriation, and the ways in which its persistence in fiction reflects not only an ongoing cultural anxiety about the friability of the national story of settlement, but also an account of ongoing Native presence despite the incursions of conquest as articulated in *Johnson*.

Chapter Two will discuss Jim Jarmusch's film *Dead Man*, in which the native character Nobody – spectral in his portrayal and his name– becomes a spiritual guide [for](#) the white protagonist, [William Blake](#), [leading him](#) away from Western development and through a landscape identified by stories and enlivened [by](#) the spirits of nature rather than delimited by property boundaries. [William](#) Blake's journey with Nobody is, for the white character, a reimagination of landscape and a severing of that

land from notions of property. William Blake begins the film as an accountant, and ends it as a poet, all the while becoming less and less corporeal – more like a ghost himself. Property is converted to poetic landscape, and the white protagonist becomes the entity that must and does finally disappear. In this way the film represents a direct critique of the Indian Removal Act of 1830: first, it decentralizes the narrative of white property ownership and reclaims the land as a sacred and living space; and second, it metaphorically reverses the doctrine of Manifest Destiny so that by the end of the film, the protagonist himself undergoes a physical and narrative transformation into a ghost (or a Dead Man) and is “removed” from the Western edge of the continent, while the Native people of the Makah reservation remain.

The third chapter, which will shift to works written by Native authors (thereby addressing Renee Bergland’s concern regarding the ambivalence of the Native ghost when employed by Indians themselves) focuses on Anna Lee Walters’ novel *Ghost Singer*. In the novel, the Smithsonian Institution is the a cipher for the entire colonial relationship between American Indians and Euro-Americans, coalesced particularly around the theft and preservation of Native human remains by government sanction. In particular, reading Walters alongside the Native American Graves and Repatriation Act ([NAGPRA](#): Public Law 101-601; 25 U.S.C. 3001-3013) reveals a prescient critique of federal attempts to restore aspects of Native sovereignty while remaining solidly within the colonial framework of a trust relationship with the tribes. Walters’ ghosts offer a way to imagine some of the key concepts of repatriation from a different epistemological frame than the western one employed by NAGPRA. In particular, her ghosts, as “stewards” of the items in the Smithsonian archive, revise and expand

typical understandings of the Act's requirements for cultural affiliation and standing. Through a reading of the novel and *Bonnischen v. U.S.* (otherwise known as The Kennewick Man case) this chapter will examine the alternatives offered by Walters' ghosts, and how those alternatives might begin to supplement the discourse of rights mobilized by NAGPRA with a repatriation marked by Indigenous concepts of relationality.

The final chapter will continue my analysis of the political effectiveness of the figure of the Native ghost when employed by Native authors through an analysis of Leslie Marmon Silko's *Almanac of the Dead*. Silko's novel, in which she envisions a pan-tribal movement to take back stolen Indian land, is perhaps the strongest and most direct indictment of federal Indian law in the collection of texts about which I am writing. By reading the novel alongside the U.S. statute in Title 18 that defines Indian Country, this chapter will demonstrate how Silko's "army" of the dispossessed, led by ghosts and ancestors, renarrativizes and remaps what has come to be called, since the advent of colonialism, the Americas. In the process, Silko's ghosts recontextualize the entire colonial history of the United States (and Mexico) within the frame of an Indigenous narrative contained within the titular Almanac, providing a vision of radical anti-colonial action that is both tribal and accessible to all. In doing so, the novel decenters the colonial narrative in both its legal-historical and mythological registers; the ancestors that populate her novel demand an excision of the entire colonial apparatus, and a rethinking of the Americas as Indigenous territory first and always.

Certainly as long as the cultural repression of American Indian genocide

endures in the United States, ghostly Native figures will continue as functionaries to mark that unacknowledged violence. Portrayals such as those in *The Revenant* will continue, because they simultaneously confine colonial violence to a historical past and allow audiences to indulge their self-righteous impulses of regret for that violence. However, to suggest that the figure of the Native ghost can only exist in that register is to perform a further critical “removal” and to recapitulate the rhetorical maneuver that would see Native people as sequestered and irrelevant to the study of American literature. The four case studies offered here coalesce to provide a vision of the ghostly Native that is neither ineffectual or static, but instead a dynamic figure that signals a powerful critique of the legal and historical contingencies of colonialism. Through these readings, I hope to suggest a combination of mutable positions or practices, of which such readings are only one, as a framework in which we might begin to understand the Native Ghost as a figure that is not always already undermined by colonial violence but instead has the potential to comment on and even counter that violence.

## REFERENCES

- Bellin, Joshua David. *The Demon of the Continent: Indians and the Shaping of American Literature*. Philadelphia: U of Pennsylvania, 2001. Print.
- Bergland, Renée L. *The National Uncanny: Indian Ghosts and American Subjects*. Hanover, NH: Dartmouth College, 2000. Print.
- Boyd, Colleen E., and Coll-Peter Thrush. *Phantom Past, Indigenous Presence: Native Ghosts in North American Culture and History*. Lincoln: U of Nebraska, 2011. Print.
- Cheyfitz, Eric. "The (Post)Colonial Predicament of Native American Studies." *Interventions* 4.3 (2002): 405-27. Web.
- Driskill, Qwo-Li. *Walking with Ghosts*. Cambridge: Salt Pub., 2005. Print.
- Frickey, Philip P. "Context and Legitimacy in Federal Indian Law." *Michigan Law Review* 94.6 (1996): 1973-992. Web.
- Goldstein, Micheline. "The Revenant Wins 3 2016 Oscars." *The Oscars*. N.p., n.d. Web. 03 Aug. 2016.
- Gordon, Avery. *Ghostly Matters: Haunting and the Sociological Imagination*. Minneapolis: U of Minnesota, 1997. Print.
- Hedge Coke, Allison. *Rock, Ghost, Willow, Deer: A Story of Survival*. Lincoln: U of Nebraska, 2004. Print.
- Scheckel, Susan. *The Insistence of the Indian: Race and Nationalism in Nineteenth-century American Culture*. Princeton, NJ: Princeton UP, 1998. Print.
- Sedgwick, Eve Kosofsky., and Adam Frank. *Touching Feeling: Affect, Pedagogy,*

*Performativity*. Durham: Duke UP, 2003. Print.

Smith, Linda Tuhiwai. *Decolonizing Methodologies: Research and Indigenous Peoples*. London: Zed, 1999. Print.

Stannard, David E. *American Holocaust: Columbus and the Conquest of the New World*. New York: Oxford UP, 1992. Print.

*The Revenant*. Dir. Alejandro G. Iñárritu. Perf. Leonardo DiCaprio and Tom Hardy. 20th Century Fox, 2015. Film.

"The Revenant." *IMDb*. IMDb.com, n.d. Web. 03 Aug. 2016.

Thornton, Russell. *American Indian Holocaust and Survival: A Population History since 1492*. Norman: U of Oklahoma, 1987. Print.

## CHAPTER 1

### Unsettling Testimony: Colonial Violence and its Witnesses in *Blood Meridian* and *Johnson v. M'Intosh*

"I want to read in what follows an important moment in the construction of the other in the culture of U.S. imperialism, a moment that, as far as I know, has not been read before, and so has remained both silent and invisible, a silence and invisibility that are the very structure of those *ghostly* constructions of the other that U.S. imperialism conjures. This is the moment when, in 1823, the genre of the Western (the drama of cowboys and Indians) and the edifice of federal Indian law first appear as distinct yet, as I will argue, interlocking and inseparable institutions" -Eric Cheyfitz, "Savage Law: The Plot Against American Indians in *Johnson and Graham's Lessee v. M'Intosh* and *The Pioneers*"; italics added.

Cormac McCarthy's 1985 apocalyptic Western novel *Blood Meridian* begins on the US-Mexico borderlands between 1849 and 1850, just after the official end of the Mexican-American war with the treaty of Guadalupe-Hidalgo and the annexation of Texas. The novel centers around the wanderings of a central character (though critics rarely call him a protagonist, I will argue that he becomes one in the final third of the novel) who is known only as "the kid." The kid drifts between bands of mercenaries, moving between towns on the Texas-Mexico border, murdering Indian people and Mexican nationals and collecting scalps to be sold. *Blood Meridian* is a novel of the frontier, but its frontier is a markedly indeterminate one: national borders are never demarcated clearly in the novel, and it is likewise unclear which of the novel's scenes of brutal violence depict (implicitly) government sanctioned violence.

A number of McCarthy scholars have called attention to the novel's "demythologizing" of the west through depictions of brutal violence and unplotted movement. Jonathan Pitts, for example, has called the novel demythologizing and



even “devisory” – a critique of American mythmaking and vision itself through the novel’s motif of “optical democracy.” And critic Sarah Spurgeon has called the novel “a sort of antimyth of the West” (Spurgeon 20).

Since the grounding narrative of the novel is the story of men out to hunt Indian scalps for profit as filibusters and mercenaries, it is important to see the brutality of the novel not as the mythic violence of the “wild west,” where lawlessness is a central and romantic part of the narrative, but instead as historically situated within a particularly violent U.S. colonial political project. This is perhaps why many critics insist that the novel demythologizes the west. It is also why the novel is read as an overtly revisionist Western: it aggressively dismantles many of the foundational myths of U.S. expansion. As critic Rick Wallach has put it, the novel reveals that “The American Dream, which posits our collective social being, has been a nightmare of genocidal appropriation involving the effacement of oral cultures” (Wallach 134). Elsewhere, Neil Campbell has similarly written that “*Blood Meridian* is an excessive, revisionist, and contradictory narrative of the American West which rewrites both the myths and histories of the West inherited from Frederick Jackson Turner...Part of what is being revised in McCarthy is a whole tradition of historiography...predicated upon a narrative told by the victor in which the dominant story is represented as a triumphal procession” (Campbell 218-19).

These critics argue that by dwelling on violence in a space of “optical democracy,” the novel teases apart history and myth at a crucial juncture and re-inserts the violence that has been effaced in the U.S.’s nationalist historiographical tradition. A reading that claimed that *Blood Meridian* “unveiled the hidden violence” (Sedgwick 140)

attendant to mid-nineteenth century claims of Manifest Destiny would accord with these anti-mythology readings, but would not, ultimately, account for its historicism or its relationship to the motifs of testimony, witnessing, and confession. Perhaps more useful in thinking through the novel's historicism is critic Jay Ellis's claim that the novel occurs at the moment when "antinomian<sup>1</sup> space" becomes "historical place;" that is, the last moment in which the "ageless violence" of the Glanton Gang could exist before becoming simultaneously domesticated by history and transmogrified into myth. (Ellis 170). Finally, though, the violence of *Blood Meridian* is difficult to classify as antinomian. In his book *Cormac McCarthy: American Canticles*, Kenneth Lincoln points out that

McCarthy's violence is never voyeuristic prurience. In an ancient classic tradition, his fiction would expose evil for what it is, face up to God's wrath, speak honest truth to corrupt power, and witness atrocity without moralizing... War marks a constant in Western history, along with lawlessness, racism, sexism, slavery, injustice... the deadly sins plus a few. (22)

If indeed the novel "expose[s] evil for what it really is," its Native characters become particularly troubling, and compelling. Though described as belligerent, cannibalistic, and as a "legion of horrors," they are figured as the witnesses of the atrocities of the novel rather than its perpetrators. Thus a reading such as Jay Ellis's in

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<sup>1</sup> I take Ellis to mean here the generalized definition of antinomian as one "opposed to obligatoriness of moral law" rather than the more specific religious definition. ("Antinomian." *OED*. The Oxford English Dictionary, n.d. Web. 22 Nov. 2016.)

his article “Filibusters to Fundamentalists: *Blood Meridian* and the New Right,” which claims that “McCarthy’s description of Indians...amounts to xenophobia, a caricature of the racial other as having no identity beyond that of animals dressed in the garb of colonial violence” (174), is perhaps too simple an understanding of the novel’s Natives.

Following and adding to the critical reading of violence and myth in McCarthy studies, I would suggest that the novel (and particularly the novel’s Native characters) *bears witness* to the mythologizing of the West and the ways in which that mythologization was achieved, both in the physical space of the west itself (particularly in the final third of the novel, when McCarthy leaves historical sources behind and the judge begins to build his own malevolent mythology) and through the sociopolitical processes that justify violence in the service of ideology. Particularly, I would like to examine the intervention of law into the “lawless” spaces inhabited by the Glanton Gang as the transit through which the transformation from antinomian space—which I read to mean a space of moral lawlessness— to historical place, confined by the strictures of law, was achieved. As I will argue, this transformation corresponds to the conversion of Indian land into European property. Thus, in order to understand the central perplexities of the novel and its Native inhabitants, it will be necessary to contextualize its action and its rhetoric within the body of federal Indian law.

*Johnson v. M’Intosh and the Willed Disappearance of Native People*

Particularly, this chapter will frame the novel in the context of the foundational federal Indian Law case *Thomas Johnson and Graham's Lessee v. William M'Intosh*

(hereafter *Johnson v. M'Intosh* or *Johnson*), a case that historically enables the violent incursions against Natives in the novel. The case is, notably, one in which no Native people were involved as litigants and no Native people gave testimony – a fact which will become important for my analysis. The Native characters in the novel become witnesses not only to the ferocious violence that saw them dispossessed of land, culture, and often life, but also to the colonial discourse that created from that violence a coherent narrative of conquest and inevitable demise. This narrative, embodied succinctly in *Johnson v. M'Intosh*, is so pervasive in federal Indian law and legislation that by the time of the 1954 *Tee-Hit-Ton v. U.S.* decision the stereotypes generated by *Johnson v. M'Intosh*—that “the tribes of Indians inhabiting this country were fierce savages, whose occupation was war, and whose subsistence as drawn chiefly from the forest” (590)—were echoed with the preface, “As every schoolboy knows...”.

Though never mentioned in the text, Marshall’s decision in *Johnson and Graham’s Lessee v. William M'Intosh*, which barred private citizens from purchasing lands from Native peoples by drawing a distinction between aboriginal and absolute title, provides the backdrop for the brutal colonial violence of McCarthy’s novel. Yet the novel has never yet been read in the context of the case, decided just twenty-six years before the action of the narrative begins.

### *Background of the Case*

*Johnson v. M'Intosh* is the foundational case of federal Indian law, as well as a foundational case of property law in the U.S. The case, as Robert Williams has put it, “ensured that future acts of genocide would proceed on a rationalized, legal basis” (Williams 317). That assertion is supported by the narrative structure of the case,

which attempts to assure that genocide would never become the dominant interpretation of Native extermination. Marshall achieves his hermetic interpretation by writing, in dicta, a thoroughly revisionist history in which Native people were always already ghosts – destined to recede as a natural consequence of westward expansion by Anglo settlements. Of course Marshall didn't create this version of history (and perhaps didn't even support it), but the opinion was the lynchpin that secured it to the canon of US law.

The case was brought by the successors in interest to a private land purchase made from the Piankashaw Indians in 1773 and 1775. The defendant, William M'Intosh, had subsequently obtained a land patent from the federal government, and both parties claimed ownership of the land. Marshall's decision in favor of M'Intosh draws heavily on both English Property Law and on the so-called "doctrine of discovery," and finds its constitutional basis in the Commerce Clause (Article 1, § VIII, ¶ 3).

In his abstract for a recent article in *The George Washington Law Review*, Jedidiah Purdy describes the much-examined contradictions of *Johnson v. M'Intosh*, writing that the case "has long been a puzzle, both in its doctrinal structure and in long, strange dicta which are both triumphal and elegiac" (Purdy 329). The terms act dialectically for Purdy, expressing the fundamental contradictions at the heart of the case and opening interpretive space for a reading of Chief Justice Marshall's ambivalence.

Alongside the opinion's much studied ambivalence, I would like to consider the coherence (in a nationalist context) of a position that embodies—in reference to the dispossession of Native people—both the triumphal and the elegiac, and in fact the

necessity of that position to the nationalist project leveraged by the opinion. The majority opinion in this case is a profoundly nationalist utterance. The Doctrine of Discovery, the originary concept that produces the court's decision, performs the conceptual labor of disappearing Indians—demographically and culturally—from the pre-colonial North American landscape in order to shore up United States colonial claims to territory. Marshall's opinion, in fact, rehearses a whole historical fantasy of colonialism on U.S. soil, of which the primary fiction is the inevitable disappearance of Native people.

Marshall begins his opinion by hearkening to the beginning of European colonialism, marking it as the historical beginning of the North American continent through an elucidation of the Doctrine of Discovery:

On the discovery of this immense continent, the great nations of Europe were eager to appropriate to themselves so much of it as they could respectively acquire. Its vast extent offered an ample field to the ambition and enterprise of all; and the character and religion of its inhabitants afforded an apology for considering them as a people over whom the superior genius of Europe might claim an ascendancy. The potentates of the old world found no difficulty in convincing themselves that they made ample compensation to the inhabitants of the new, by bestowing on them civilization and Christianity, in exchange for unlimited independence.

Marshall's (re)writing of history is significant, even as the tone of his statement fairly drips with irony. He naturalizes, through his invocation of the "old

world” and the “new,” as well as through his emphasis on the emptiness and vastness of the continent (an “ample field”), the discourse of discovery in order to disavow the early history of colonial dispossession of Native North Americans. Then, while displacing the responsibility of his rhetoric onto the “potentates of the old world” he offers an “apology” for European ascendancy in North America: the “superior genius of Europe,” the “ample compensation” bestowed on Indians, and the “exchange” for the ability to claim Indian land. Sulrey there is a great deal of sarcasm and self awareness in this statement; and yet, despite Marshall’s obvious misgivings (revealed by the hyperbole of his language), this passage begins the conversions of preemption to title, and Indian land to English property.

The idea of compensation is active in this passage, nodding to earlier (and less controversial) law<sup>2</sup> that claimed preemption for the federal government in the purchase of Indian land. However, compensation itself becomes abstracted here, so that “bestowing...civilization and Christianity” are posited as “ample compensation” for Indian land. In other words, religious conversion—itsself the forerunning apparatus of European colonialism in the “New World”—both prepares the way for settler colonialism and acts as recompense for its violences. Again, although the language here is ironic (of course the potentates of Europe, who were hungry for new land, “found no difficulty in procuring it”), the translation of religion into compensation performs the rhetorical labor of suggesting that Indigenous people in the Americas had already been “paid” for their lands, while abstracting that payment in terms that pave the way for the full articulation of the Discovery Doctrine.

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<sup>2</sup> See *Fletcher v. Peck* (10 U.S. 87).

Near the beginning of the opinion, Marshall opines regarding the right of preemption:

The exclusion of all other Europeans, necessarily gave to the nation making the discovery the sole right of acquiring the soil of the natives, and establishing settlements upon it. It was a right with which no Europeans could interfere. It was a right which all asserted for themselves, and to the assertion of which, by others, all assented.

(572)

Preemption, however, is not the paradigm under which the opinion operates. Instead, Marshall shifts from claiming for Europeans the right of preemption to the right of title itself. Just before the passage above, describing the Doctrine of Discovery, he writes

This principle was, that discovery gave title to the government by whose subjects, or by whose authority, it was made, against all other European governments, which title might be consummated by possession. (572)

Though the notion of preemption may have been largely accepted in 1823 (as evidenced by positive law including the Virginia Declaratory Act of 1779), Marshall's extension of preemption into title is of his own devising. The opinion reinforces the European claim to Native land further by relying on a largely fictional account of Native people to reiterate an old saw (even in 1823) that American Indians were fated to disappear. The dicta achieves the rhetorical disappearance of Native people first by



asserting (over and over)<sup>3</sup> the right of discovery in spite of Native occupancy, a move that simultaneously affirms Native existence and rejects Native agency or presence in a way that would affect European historical claims. The second rhetorical move toward the willed disappearance or ghosting of Native people is the opinion's reliance on myths of the savagery, dispersion, and low population of Native settlements<sup>4</sup> in order to cast colonization as "inevitable" (590).

And finally, Native people are absent even in the configuration of the case, which is a property dispute between two European American disputants, with no representation from the Piankashaw. The Piankashaw, in fact, are hardly mentioned in the opinion (though they figure heavily in the syllabus). Any culturally specific referents (including queries that could have affected the case's outcome, such as how the land was used by the Piankashaw<sup>5</sup> and how, culturally, territory was defined) are evacuated and replaced with typecast barbarians:

But the tribes of Indians inhabiting this country were fierce savages,

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<sup>3</sup> For example, "They were the rightful occupants of the soil..." (574); "...a country, every acre of which was then claimed and possessed by Indians, who maintained their title with as much persevering courage as was ever manifested by any people" (586); "This territory, though claimed by both nations, was chiefly in the occupation of Indians." (587)

<sup>4</sup> This myth has been thoroughly debunked. For a particularly compelling discussion of the ways significant numbers of Native people profoundly shaped the North American landscape, see Cronon, William. *Changes in the Land: Indians, Colonists, and the Ecology of New England*. New York: Hill and Wang, 1983. Print.

<sup>5</sup> In a particularly egregious example of the refusal to consider cultural specificity, Marshall claims the following: "According to every theory of property, the Indians had no individual rights to land; nor had they any collectively, or in their national capacity for the lands occupied by each tribe were not used by them in such a manner as to prevent their being appropriated by a people of cultivators" (570). The Piankashaw, part of the larger tribal affiliation of Miami Indians, were a Mississippian agricultural society (Emerson and Thompson 17).

whose occupation was war, and whose subsistence was drawn chiefly from the forest. To leave them in possession of their country, was to leave the country a wilderness; to govern them as distinct people, was impossible, because they were as brave and as high spirited as they were fierce, and were ready to repel by arms every attempt on their independence. (590)

This passage is a particularly salient example of the tone that Jedidiah Purdy describes as both “triumphal and elegiac.” The (entirely fictional) Indians of the passage must be fierce savages because in order to claim the essential rightness of colonialism the court must make reference to both a civilizing mission and a necessity of just war, the two of which intertwine to spin a remarkably strong nationalist thread by creating a common antagonist in Native Americans. That thread is then interwoven with a eulogizing impulse to describe the Indians as “brave and high spirited” to produce a tapestry of nationalist feeling: at once triumphant in victory over the savages and regretful that it simply had to be that way – that there must inevitably be those trampled in the march toward civilization.

*Johnson v. M’Intosh at work in Blood Meridian*

It is precisely this march of historical time that *Blood Meridian* dismantles. *Blood Meridian* is set in the very midst of intense U.S. expansion and border fortification, a few years after the Monroe Doctrine and at the time of the federal government’s policy of Indian removal and relocation, twenty years after the Indian Removal Act and twenty years before Congress halted the practice of treating with tribes in 1871. During the same time, the western gold rushes of the late 1840s and

early 1850s brought unprecedented numbers of European American settlers west, seeking out land that had been allotted for reservations. Though in the early scenes of the novel the Monroe Doctrine is central, in order to catch the full force of the imperial ideology that animates the novel, that doctrine must be read alongside *Johnson v. M'Intosh*. If the Monroe Doctrine stabilized the U.S.'s external boundaries by prescribing action if those boundaries were violated, *Johnson v. M'Intosh* performed the same labor for what some were worried were *internal* boundaries in the U.S. with foreign nations – Indian tribes. *Johnson v. M'Intosh* began the crucial nationalist project of eroding those boundaries, even as the nation's external boundaries were being reinforced. The Marshall court, in other words, instantiated the ideological frame through which the violence of the novel's Glanton Gang was sanctioned. In turn, the novel's depiction of the hellish brutality of that violence enacts an implicit critique of the foundational tenets of federal Indian law: the seemingly benign translation of Indian title into the right of occupancy.<sup>6</sup>

I propose three related frameworks under which we might begin to undertake an analysis of the Native characters in the novel that demonstrates that, far from racialized colonial projections of the Other, they are instead resistant and perseverant witnesses to the entwining of violence and mythmaking on North American soil. First,

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<sup>6</sup> See Cheyfitz in both "Savage Law" and *The Poetics of Imperialism* for a reading of the translation of Indian land into property for the precise purpose of divesting Indians of it. Cheyfitz, Eric. "Savage. Law. The Plot Against American Indians in Johnson and Graham's Lessee v. M'Intosh and The Pioneers." *Cultures of United States Imperialism*. By Amy Kaplan and Donald E. Pease. Durham: Duke UP, 1993. 109-28. Print.; Cheyfitz, Eric. *The Poetics of Imperialism: Translation and Colonization from the Tempest to Tarzan*. New York: Oxford UP, 1991. Print.

I explain the work of the court (and the Glanton gang, whom we will come to understand as the court's functionaries), in terms of Lauren Berlant's concept of "slow death." I attach the idea of slow death to Robert Cover's view of the Supreme Court's primarily jurispathic function. And finally, I note *Blood Meridian's* complicated portrayal of testimony and witnessing in order to illustrate the ways in which the ghostly Natives that inhabit the novel become more than simply figures for repressed American guilt *or* shadowy postmortem phantoms ("ghosted" in both life and literature) of North American Native peoples.

Though none of the Native characters in the novel are ghosts in a literal sense, they are certainly spectral, always otherworldly, and often ghastly. There are no named Native characters in the novel, only spectral processions of unidentified Native peoples on the move, some the victims of policies of Removal and some taking advantage of the postwar instability of territorial governments to conduct predatory raids.<sup>7</sup> All are poor, many are refugees of removal and the quarry of the government-sanctioned Indian killers. They have been evacuated of all defining features, and retain no tribal or clan affiliations beyond the broadest terms (Comanche, Apache, Yuma). They are often described using only the generic title of "Indian drovers." In one

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<sup>7</sup> While the characters in the novel never learn the tribes of many of the Native people they encounter throughout the text, the reader learns their tribes through the headings that precede each chapter. For example, after their first violent encounter with Indian cattle drovers, the kid asks a companion of he knows "What kind of Indians was them?" Though "I don't know" is the reply (59), the headings inform the reader that they had been attacked by Comanches. Historically this makes sense, since Comanches took advantage of the weakened state of military forces along the border of Texas and Mexico to conduct raids. Here again is the distinction between history/teleology, which makes a kind of narrative sense, and its embodiment in a moment, which often doesn't.

scene, before a violent encounter, they are described at length. It is the lengthiest description of the Indian characters in the book, and bears reproducing here in its entirety:

A legion of horrors, hundreds in number, half naked or clad in costumes attic or biblical or wardrobed out of a fevered dream with the skins of animals and silk finery and pieces of uniform still tracked with the blood of prior owners, coats of slain dragoons, frogged and braided cavalry jackets, one in a stovepipe hat and one with an umbrella and one in white stockings and a bloodstained weddingveil and some in headgear of crane feathers or rawhide helmets that bore the horns of bull or buffalo and one in a pigeon tailed coat worn backwards and otherwise naked and one in the armor of a Spanish conquistador, the breastplate and cauldrons deeply dented with old blows of mace or saber done in another country by men whose very bones were dust and many other with their braids spliced up with the hair of other beasts until they trailed upon the ground and their horses' ears and tails worked with bits of brightly colored cloth and one whose horse's whole head was painted crimson red and all the horsemen's faces gaudy and grotesque and daubing like a company of mounted clowns, death hilarious, all howling in a barbarous tongue and riding down upon them like a horde from a hell more horrible yet than the brimstone land of christian reckoning, screeching and yammering and clothed in smoke like those vaporous beings in regions beyond right knowing where the

eye wanders and the lip jerks and drools. (McCarthy 55)

The description is one on which to dwell. If *Blood Meridian* is indeed a demythologized history of European imperialism, here the clotted and byzantine language and logic of that imperialism converge. First, there is the puzzle of who narrates the scene. A great deal of productive scholarly energy has been directed toward understanding *Blood Meridian's* narrator. The first person effaced narrator announces himself in the novel's second paragraph, and then disappears from view. However unusual the production of a first person effaced narrator, what is most important for the current study is that the narrator is not, in fact, omniscient, though it does seem to be deeply educated in western history and narrative. Many critics (e.g. Snyder) have argued that the narrator does produce the *illusion* of omniscience, which "serves to undercut any notions of narrative authority" (Snyder 132). However, I would argue that any narrative authority is undercut from the start, both by the introduction of a first person narrator, and the hermeneutical position of the effaced narrator, who may only describe, in however grandiose terms, the tableau of the scene at hand. Likewise, the glosses at the beginning of each chapter serve to further undercut any sense of narrative authority, as they reflect the action of the novel sporadically and incompletely, but with the full force of teleological order. Although it is not clear (as it is never clear in the novel) from whose point of view this description is mounted, the effaced narrator of the scene is particularly attendant to the minutest details of the grotesquery of dress and appearance presented by the Indian drovers.

Yet this visceral, excessive description is uncommunicative in telling ways. No cultural specificity is noticed or noted; rather, the Indians are "attic or biblical" -

descriptors that allude to fallen civilizations as well as to the wanderings of the Israelites in the Old Testament. The passage establishes the interpretive model through which the Glanton Gang implicitly glosses both their mission and their enemy: as extensions of a Western mytho-historical tradition in which history is written by the victors.

These comparisons are consistent with the imperial cataloging of Native Americans in the early days of US colonialism, when Native people were thought to be a lost tribe of Israel. James Adair, a trader who in 1775 wrote a monograph entitled *The History of the American Indians*, spent a disproportionate amount of space in that book devoted to the hypothesis that modern Native people were descended from the Israelites. He wrote: “From the most exact observations I could make in the long time I traded among the Indian Americans, I was forced to believe them lineally descended from the Israelites, either while they were a maritime power, or soon after the general captivity; the latter however is the most probable. This descent, I shall endeavour to prove from their religious rites, civil and martial customs, their marriages, funeral ceremonies, manners, language, traditions, and a variety of particulars. -- Which will at the same time make the reader thoroughly acquainted with nations, of which it may be said to this day, very little have been known” (13-14). Though certainly not unique to the U.S. context, Adair’s particular fervor for taxonomizing Native peoples suggests a double imperial scheme: both to make Native history scrutable to European and Euro-American historians, and to place that Native history temporally earlier than that of Western history in order to suggest a lack of “civilization.”

Accordingly, the “Indian drovers” passage’s description of clothing “attic or

biblical” draws on both western cultural logic, but not on Native cultural specificity; the “costumes” have been evacuated of everything outside western history (Cheyfitz 59). Western dress—particularly that dress associated with colonization or war—is legible, if fantastical: the armor of a conquistador, “frogged imperial jackets,” the “coats of slain dragoons.” Yet despite the grounding in western narratives, these figures are incommensurably other, and essentially savage. They are ragged and fundamentally bereft of law or institution, a point which is emphasized by their nakedness or half-nakedness under their partially westernized attire, as well as by the general chaos of the picture they present. As a result the narration can only cobble together an image of the embedded in Western institutions and imaginings; in fact, the Indian drovers (despite their fearsomeness) are implanted into Western history so seamlessly in the passage that colonial domination seems garishly inevitable: their very aspect is that of “death hilarious.”

The passage—the first in which the kid encounters Indians—is, in this sense, a vividly drawn picture of the American racial imagination. It combines—often in dissociative, uneasy ways—myths of genesis and social evolution. It appeals to the repressed psycho-social idea of the savage, along with religiously grounded notions of the ignorant unbaptized awaiting salvation through civilization. In this reading, the drovers are the embodiment of the manipulative possibilities of the discourse of savagery, which might equally be cast as debased or possessed of an essential and “pure” nobility.

Of course this discourse can be traced back at least to the rise of Western civilization, which has always needed its savages. It is linked as well to the long rise



of Christianity, which defined itself in opposition to heathens and heretics. More specifically though, the legal application of that discourse of savagery to Native North Americans is at least partially inherited from *Johnson v. M'Intosh*. The premise from which Chief Justice John Marshall draws his decision is rooted explicitly in the Supreme Court's position as one of the "courts of the conquerer." (588) Far from acknowledging any of the indigenous sociocultural formations among the Piankashaw and Illinois (the tribes who had allegedly deeded the land in question to the Illinois and Wabash Land Company), Marshall instead draws on colonial discourse to insistently racialize the Piankashaw as Indians (and therefore savages). He describes the continental US at the time of 'discovery' as a sort of terra nullius, and the indigenous people who lived there as having no more legal right to the land than the animals who inhabited the North American forests. This is, of course, an oversimplification of the opinion, which does go on to recognize in Indigenous Americans a right of occupancy, qualitatively different than title. However, there is a tension between the assertion of this right of occupancy and the rhetoric of "discovery," the very name of which suggests a previously uninhabited, undiscovered territory. As legal historian Eric Cheyfitz has pointed out, the rhetoric of the uninhabited continent was predicated in part on a translation of Native epistemologies which hold land in a kinship relationship to European epistemologies in which land is property. In a 2003 article in *The Journal of Constitutional Law*, Cheyfitz writes:

[Kinship relations to land] are the antithesis of what the West has defined historically as property relations, the relations of a person or formal association of persons, defined as an individual, to a

commodity. In the antithetical sense I am evoking here, property relations are quintessentially relations of alienation, whereas traditional kinship relations in this indigenous context are quintessentially reciprocal. Native land, in a traditional context, is inalienable, whereas property is defined by its alienability. (224)

In other words, *Johnson* sets an insidious judicial precedent through which the “courts of the conquerer” not only decide who can own land, but who gets to define what land is and the proper relationship to it. In this way the court’s spectralizing work extends beyond the physical landscape and into the mechanisms of legality and justice.

Similarly, haunting in the novel takes place in the plane of the imagination. Though the Delawares, Apaches, and Comanches that people its pages are *real* in the sense of physical/historical presence, they are described as spectral visions. This spectralization points up a social unease with the colonial history of the United States, but McCarthy’s oblique narrator looks with an unblinking gaze, suggesting a history that must be reckoned with. Sociologist Avery Gordon could have been writing about *Blood Meridian* when he wrote about haunting as a social phenomenon, “All the intimations of...[haunting] are reread into an elaborate cultural braid of portentions and significations, fragments of events, memories, lives embodied and embedded within a System that never succeeded in making itself the world or in turning people into the inert property of its will, and that cannot fully account for the lives made within its negating and treacherous bounds” (164). The “inert property of its will” is precisely the status of Native land and of Native people in the Marshall court’s account, and its failure to instantiate that status as a stable historical fact is crucial for

understanding McCarthy's Indians as anything beyond ragged victims of history and the violence inflicted by the novel's protagonists.

The novel's Native figures, however overdetermined as avatars of western cultural history, are never fully eliminated from the landscape, acting as a trace of Native communities that the US government has eradicated or hopes to eradicate. And it's important to note as well, that they are not what Robert Williams has called "the vanquished, vanishing, doomed Indian savage [that] is a stock character in nineteenth-century American literary classics, dime novels, and Wild West Shows" (Williams 35). Because of the flattening effect of a novel so devoid of psychology, they are nearly indistinguishable from their counterparts whose charge is to murder them. They become witnesses of the colonial violence wrought under the auspices of federal Indian law, just as the Glanton gang is depicted as the instrument of that violence. The Glanton gang are the primary agents of willed disappearance or ghosting in the novel, particularly – as Phillip Snyder notes – within the "larger sociopolitical context of frontier colonization through the annihilation of indigenous peoples..." (133). They are the agents of what Jacksonian era bromides called "Removal." Reading McCarthy's Glanton gang this way, it becomes impossible to see them as other than bound up in the legal configurations represented by *Johnson v. M'Intosh*; and if the Glanton gang are haunted, so must be (as we shall see) the body of federal Indian law itself.

We can imagine McCarthy's spectral Indians in *Blood Meridian* being held in the unsettling present of the crucial historical moment engendered by *Johnson v. M'Intosh*. One way to understand *Blood Meridian's* critique of coloniality in terms of

*Johnson v. M'Intosh* is to borrow a concept gleaned from Lauren Berlant's examination, in her 2011 book *Cruel Optimism*, of what she calls "slow death." Berlant writes that "The phrase *slow death* refers to the physical wearing out of a population in a way that points to its deterioration as a defining condition of its experience and historical existence" (95). For her, this points up a "development in the ways we conceptualize contemporary historical experience, especially where that experience is simultaneously at an extreme and in a zone of ordinariness, where life building and attrition of human life are indistinguishable, and where it is hard to distinguish modes of incoherence, distractedness, and habituation from deliberate and deliberative activity, as they are all involved in the reproduction of predictable life" (96). We might understand the ghostly Native presences in *Blood Meridian* as witnesses to "slow death" in the process of becoming; that is, as witnesses to the very discursive practices that create slow death by producing the narrative foreclosures that such a death entails. In passages such as the Indian drover passage produced above and a passage examined later in which two Native scouts search for a lost companion, Native characters are silent while narratorially described in terms of their "deterioration as a defining condition." Unexpectedly, though, it is precisely through the novel's insistence of incoherence and violence as a mode of habituation that space in the novel for active resistance is created; while one might expect Native life to dissolve or disappear beneath the continuous onslaught of excessive violence, the historical and literary fact of the novel is that Native peoples engaged that violence and resisted it.

The distinction Berlant makes between the quotidian and the historical is

important, and it is the same distinction (and connection) I want to draw between the events of *Blood Meridian* and the *Johnson v. M'Intosh* decision. For Berlant, “the current discussion of sovereignty [is] as a condition of and a blockage to justice [which] recapitulates the widespread contemporary projection of sovereignty onto events of decision making” (96). And yet this formulation “masks in a discourse of ‘control’ the wide variety of processes and procedures involved historically in the administration of law and of bodies” (96). In other words, Berlant seeks to decenter moments of legal/administrative decision making as the critical junctures of sovereignty. She is describing an alternative to the critical genres of crisis and interpretation through attention to the time and space of “ordinariness” rather than the moment of the event. For this reason, Berlant sees slow death at work not in traumatic events but instead in “temporally labile environments whose qualities and whose contours in time and space are often identified with the presentness of ordinariness itself” (100).

Berlant’s determination to look closely at the everyday and to turn away from the rhetoric of crisis holds rich potential for understanding the ways in which McCarthy’s *Natives* (and indeed all of the Native ghosts to which this project attends) might unmoor from more traditional, symptomatic readings. McCarthy, often to shocking effect, moves violence into the realm of the everyday. Not just “enemy combatants,” or even adult people, are casually killed: babies, donkeys, cats, and chickens are shot in descriptions that are all the more brutal for their ordinariness. As a result, the time and space of the novel are stretched; rather than a massacre acting as an “event” that takes place in a given material “environment,” massacre becomes the

basic condition of life in the novel. The world of *Blood Meridian* is one in which “death seemed the most prevalent feature of the landscape” (42).

McCarthy’s Indians then, complicatedly situated as they are as victims, drovers, enemy armies, and Indian hunters themselves, pull *Johnson* out of the rhetorical tradition of a single event that shaped history—that is, out of the realm of decision—and into one of the presentness of unfolding time and space. Why is this move significant? It signals a durability of narrative presence, of a living through that might be held aside from the event of *Johnson v. M’Intosh*, or the event of Removal (as a time-bounded policy). That is, it suggests that these figures, ghost-like as they are, are not extinguishable in the very ways that Indian law and policy of the time would have wanted to extinguish them. Their ghostly appearance in this work of American fiction is not a doubled-down “removal” from American land and literature, but rather a resistance to that removal via the act of witnessing its violence, which the reader witnesses alongside them.

Death itself, suffused throughout the novel, might be read politically in these terms. Pheng Cheah provocatively began his 2003 book *Spectral Nationality* with the sentence, “Nationalism has almost become the exemplary figure for death” (1). Though Cheah is imagining a far more multifarious vision of nationality than the one I am dealing with here – nationality in the age of global cosmopolitan challenges to the form – the statement is apt. The nation-building impulse that suffused the zeitgeist of the mid-nineteenth century United States puts Marshall in the position of eulogizing a group of cultures that is not actually dead, in an attempt to narratively kill them off. A potentially transformative way of understanding this ghosting is thinking it through

what legal scholar Robert Cover has called the “jurispathic function” of the court, which he attributes particularly to the Supreme Court, and which he claims acts not to create law but to kill it, and to kill narrative along with it. That is, the creation of new law actually entails the winnowing of multiple possible futures (legal outcomes) to one precedential decision, foreclosing other narrative and legal possibilities.

In other words, we can understand the *Johnson v. M’Intosh* producing a colonial narrative by “killing” all other possible narratives (and potential legal interpretations) that would produce other, less teleological narrative possibilities. Considering the case in this way, we might rethink the notion of ghosting, and the ways in which Native ghosts function in the colonial narrative that emerges. Rather than the action of “ghosting” precipitating the disappearance of Native people, with the ghost a figure *for that disappearance*, we can think of the jurispathic action of “killing” alternative interpretations or narratives, and the ghosts this action produces as the stubborn traces of those other narratives. Constituted this way, Native ghosts exude real resistant—and even potentially reparative—possibility. An understanding of spectral representations of Natives as resistant might help to mitigate against the problematic position of many image studies and might likewise create interpretive spaces in which spectral Indians present difficult problems for the narrative of colonialism rather than passively witnessing its development.

An example of how these concepts work together: Marshall avers that federal land patents can be obtained from Indians either through purchase or just war. Part of McCarthy’s intervention is to demonstrate the absurdity of the justice of war by depicting its violence and its illegalities often on the minutest level. If *Johnson v.*

*M'Intosh* operates on the level of decision making, the actors and events of McCarthy's novel represent the historical processes of sovereignty as it plays out in embodied form: that is, how the law touches the lived bodies of actors on both sides of the ideological and legal conflict it creates.<sup>8</sup> This connection is particularly important because it addresses a conceptual gap between the legal workings of the court and the extralegal movements and actions of the Glanton gang. Once the court invokes a version of slow death—which it does quite explicitly in sentences like, “As the white population advanced, that of the Indians necessarily receded”—it becomes impossible, from a national standpoint, to see disappearance otherwise than as a defining condition of Native existence. Therefore the strong sovereignty this assertion allows the court to exercise also becomes the implicit sense of permission that permeates the actions of the novel's Indian hunters and filibusters. Though not associated with the law, the Glanton gang (and White's filibusters before them) operate under the auspices of the discourse of sovereignty as expressed by a deeply nationalist court.

Another episode will illuminate particularly well both the novel's spectralization of Indians and its simultaneous resistance to it through *their witnessing*

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<sup>8</sup> Contrast this with law professor Eric Kades' 2000 study entitled “The Dark Side of Efficiency: *Johnson v. M'Intosh* and the Expropriation of American Indian Lands”, which argues that Marshall's decision was rendered to maximize efficiency in government acquisition of Indian Land. He writes, “The thesis of this Article is that colonists established rules to minimize the costs associated with dispossessing the natives. If it had been cheaper to be more brutal, then Europeans would have been more brutal. Such brutality, however, was not cheap at all. Likewise, if it had been cheaper to show more humanity, the Europeans would have exhibited more, such as extending Indians full rights to sell (or keep) their land” (1071). Such a misguided reading demonstrates one benefit of reading literature alongside legal scholarship; while the language of Marshall's decision may not have been “brutal,” assuredly violence and brutality toward Native people were a result.



*that spectralization*. Midway through the novel, one of the Glanton gang's Delaware scouts is carried off by a Grizzly bear. It plucked him from his horse and absconded with him while the gang shot at it, while "the man dangling from the bear's jaws looked down at them cheek and jowl with the brute and one arm about its neck like some crazed defector in a gesture of defiant camaraderie" (143). Although Glanton shoots the bear several times, "the beast loped horribly into the forest with his hostage and was lost among the darkening trees" (143).

The next paragraph begins with an account of the Delawares tracking the lost scout as the tracks and signs grow fainter and more distant. When they are unable to find him because "The bear had carried off their kinsman like some fabled storybook beast and the land had swallowed them up beyond all ransom or reprieve," (144) the passage shifts suddenly to an exegesis on the nature of colonialism:

They did not speak. They were men of another time for all that they bore Christian names and they had lived all their lives in a wilderness as had their fathers before them. They'd learnt war by warring, the generations driven from the eastern shore across a continent, from the ashes at Gnadenhutten onto the prairies and across the outlet to the bloodlands of the west. If much in the world were mystery the limits of that world were not, for it was without measure or bound and there were contained within it creatures more horrible yet and men of other colors and beings which no man has looked upon and yet not alien none of it more than were their own hearts alien in them, whatever wilderness contained there and whatever beasts. (144)

The subtle shift from “him” to “them” in the description of the bear’s quarry signals the rightness of a metaphorical interpretation of the passage: while the bear only takes one Delaware man, it is the Delawares themselves that “the land had swallowed up beyond all ransom or reprieve.” In the rest of the passage the narrator seems to take on the sympathies of the Delawares, and the writing evinces an elegiac tone. There is a specific reference to removal, but the meanings of the passage seem to weave and veer. That these men had “lived all their lives in a wilderness as had their fathers” is certainly not literally true, as they have spent the majority of the narrative traveling in and out of border towns, living precisely as other members of the Gang. Wilderness, particularly, is a place of slippages in this passage: the wilderness of the American landscape has become a wilderness of confusion and violence, and finally wildernesses unknown, external and internalized. The ideas of wilderness that have pervaded colonial discourse and especially federal Indian law collapse into incoherence in the presence of these Delaware witnesses.

Here the passage manifests a different vision of westward expansion than the Turnerian thesis of a static, westward-advancing frontier that has shaped conventional understandings of U.S. expansion. Rather than Turner’s “outer edge of a wave,” the “meeting point between savagery and civilization” that has come to dominate popular conceptions of the American frontier, here wilderness is not safely contained behind an imaginary line. Instead, it is omnipresent and inescapable – “without measure or bound.” The violence with which the Delawares have become entangled, both as victims and perpetrators, is a wilderness unto itself.

It’s important to note the dynamism of the condition of both being violent and

being a victim of violence in the passage. McCarthy's Delawares resist spectralization even as the narrator ascribes it to them. Though they "did not speak," they sit their horses and center the passage around their knowledge of their own pasts and presents, of which neither the reader nor the narrator are permitted to hear an account. More importantly, although the landscape purports to swallow them "beyond reprieve," in point of fact they return to the Glanton Gang and "divided [the] estate" of the lost scout among themselves.

Finally, and perhaps most importantly, it must be noted that the whole bear scene takes place while the Glanton gang are passing through a region filled with Anasazi and modern Pueblo ruins. As they do, ancient and modern collapse in what the narrator describes as the "optical democracy" of the west:

in the neuter austerity of that terrain all phenomena were bequeathed a strange equality and no one thing nor spider nor stone nor blade of grass could put forth claim to precedence. The very clarity of these articles belied their familiarity, for the eye predicates the whole on some feature or part and here was nothing more luminous than another and nothing more enshadowed and in the optical democracy of such landscapes all preference is made whimsical and a man and a rock become endowed with unguessed kinship.(258)

This passage has prompted more critical response than perhaps any other in *Blood Meridian*. In his book *The Pastoral Vision of Cormac McCarthy*, Georg Guillevin undertakes a thorough literature review of these interpretations before offering his own. Analyses of the passage range from the decentering of human perception as a

kind of anti-anthropocentrism (Shaviri, Lilley), to a modernist search for the essential ‘thing itself’ at the limits of language (Holloway), to a “picto-grammatical” twentieth century allegory (Owens). (Guillemin 75-79) Guillemin’s own reading of the novel’s insistence on optical democracy is “to elevate nature...to an existential rank equal to that of human beings” (79). Of the novel’s desert scenes, he writes that “nowhere in McCarthy’s work is the resistance of wilderness to the logocentric encoding of nature as a cultural artifact more patent, more successful” (79).

I would like to offer instead the suggestion that the inherent spatialization of the “optical democracy” here described is of a piece with the possibilities of narrative opening I have been thinking through here. Defining “slow death,” Lauren Berlant claims that it lies between exception and banality, “a domain where an upsetting scene of living is revealed to be interwoven with ordinary life after all, like ants discovered scurrying under a thoughtlessly lifted rock” (102). The scene above suggests just such a configuration, in which the struggles of McCarthy’s human characters are akin the experiences of a rock in the desert.

*Judge Holden, Justice Marshall, and the legal work of ghosting*

Of course this might at first blush seem to be a nihilist or (a favorite word of McCarthy fans) apocalyptic reading that accords with Judge Holden’s own ideas about the futile nature of existence, much less history. I read it differently, though. Soon after the bear takes the rider, Judge Holden (referred to most frequently only as the judge – the lowercase nonspecificity of his moniker, like the kid’s, in tension with the definite article to produce a flavor of high allegory) delivers a lecture on geology. He includes in his discourse, which he frames as a natural history, some description of the

remains of Anasazi life around them. This scene, I hope, will clarify my reading of the novel as legal commentary by demonstrating the connection between Judge Holden and Chief Justice Marshall, and extend my analysis of McCarthy's tribes of spectral Indians to demonstrate that they are not emblems of repressed guilt but hold space for native sovereignty (even in a limited way),<sup>9</sup> or, perhaps, for an inextinguishable trace of precolonial political/cultural/governmental life. I place special importance on this scene because that trace of a sovereign, pre-colonial existence is precisely what Judge Holden would destroy in this scene, and likewise exactly the target of the language of savagery in *Johnson v. M'Intosh*.

Among the "ruins of an older culture," Judge Holden spends a day collecting artifacts of Indian culture and colonial occupation (145). The scene is narratively significant because it is the first glimpse of the all-consuming power of the judge's book (a subject to which I will return in a moment). Taking first slings and potsherds, then the relic of a Spanish breastplate, Holden, described here as "a draftsman as he is other things," sketches them into his book. When asked why he records the objects the judge replies, "that it was to expunge them from the memory of man" (147). The judge's book obviates the old chestnut "history is written by the victor" with a more radical claim. Who gets to tell the narrative of colonialism is a negative conceptual

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<sup>9</sup> I use the word sovereignty here with some trepidation. I do not mean to suggest that the notion of sovereignty – a western European concept – was intrinsic to Anasazi culture or political life. Rather, I am attempting to mark an unextinguished (though deeply compromised) continuity of a *political life and culture*. I use the word sovereignty here because of its importance in contemporary American Indian political formations and discourses of autonomy. Though the concept of sovereignty is contested in Native studies, I see it here as a pragmatic schema for understanding the ongoing political resistance of the Native people descended from the Anasazi.

field: there can be no countervailing claims to history if there is no history at all. The judge's book functions to wipe out narrative possibility, to erase the whole history of colonialism. Holden completes the narrative foreclosure with two statements, one as grandiose a claim about history as one could wish, and one suggesting a localness so immediate as to be colloquial.

The latter is his announcement that the Anasazi "quit these parts," (152) a statement notable for its departure from his usual portentous language. He then expounds that idea into a lengthy speech that acts as a denial of the possibility of Anasazi memory:

They quit these parts ages since and of them there is no memory. They are rumors and ghosts in this land and they are much revered. The tools, the art, the building—these things stand in judgment on the latter races. Yet there is nothing for them to grapple with. The old ones are gone like phantoms and the savages wander these canyons to the sound of an ancient laughter. In their crude huts they crouch in darkness and listen to the fear seeping out of the rock. All progressions from a higher to a lower order are marked by ruins and mystery and a residue of nameless rage. So. Here are the dead fathers. Their spirit is entombed in stone. It lies upon the land with the same weight and the same ubiquity. (McCarthy 152)

This is ghosting *par excellence*. Both of these statements, the colloquial and the grand, are attempts to sanitize the violence of the colonial project by couching it in the discourse of inevitability (a discourse that the judge takes further on the following

page when he claims that the “[man’s] meridian is at once his darkening and the evening of his day” (153)). More radically, the second statement is an attempt to extirpate even the memory of the precolonial. His claim that “of them there is no memory” is a willful attempt to force that forgetting, much the way Marshall forecloses political potentialities in *Johnson* through the rhetorical foreclosure of *narrative* or historical potentialities other than the inevitability of conquest. That is, in *Johnson* as in Judge Holden’s book, history is erased rather than written, creating space for the wholesale mythologization. The difference is that in the world of the novel, such foreclosure is made impossible by the witnessing—especially the Indigenous witnessing—of the daily condition of violence.

The ghostlike Indians whose materiality is written out of existence in Judge Holden’s book exemplify the legacy of the jurispathic function of the court. Legal scholar Robert Cover has written that judges are essentially “people of violence. Because of the violence they command, judges do not characteristically create law, but kill it.” (Cover 53) This is how Cover defines the courts jurispathic role and goes on to say that “Confronting the luxuriant growth of a hundred legal traditions, [judges] assert that *this one* is law and destroy or try to destroy the rest” (Cover 53).

Robert Williams extends Cover’s claims regarding the jurispathic, attributing this function most particularly to Supreme Court justices and arguing that the jurispathic court “play[s] a critical role in sanctioning and perpetuating racism against certain groups. The stereotypes or images that the Court has thus legitimated and expanded can now be used to legally justify a rights-denying, jurispathic form of racism against those groups....In other words, the justices have the legal authority in our society to tell

people that it's not only reasonable to act in a racially discriminatory and hostile way, it's perfectly legal as well" (Williams 21).<sup>10</sup>

However McCarthy's judge sanitizes violence by embracing it— and he does so in a multitude of ways (through discourses on the cyclicity of time and the inevitability of destruction, through committing senseless violence to strip it of narrative possibility, through embracing it via the language of war) he is not, ultimately, successful. Though attempting to write the subjects of his book out of existence, the paradox of *The Judge* is that everything he attempts to eradicate is recorded in the novel itself.

Like Holden, Chief Justice Marshall inhabits and relies on a deep-seated colonial narrative, though also like Holden he is deeply implicated with that narrative's shaping. When Marshall claims in the *Johnson v. M'Intosh* opinion, that "conquest gives a title which the courts of the conqueror cannot deny," he accedes to the power of that narrative: the narrative of conquest which will cut the path for all of federal Indian law still to come (588). The statement has been read as evidence of Marshall's ambivalence, a reading to which I give credence. Here, though, I'd like to suggest—through a comparison to Judge Holden—that its ideological attempt, like Holden's, is to "expunge" the history of coloniality "from the memory of man." The

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<sup>10</sup> Cover elaborates on the social function of jurisprudence as well: "[a] community's acquiescence in or accommodation to the judge's interpretation reinforces the hermeneutic process offered by the judge and extends, in one way or another, its social range." (page) This of course, begs the question of to what community is being referred. Not, one must assume, Indian communities. I am reminded of Vine Deloria: "Indians have not accepted the mythology of the American past which interprets American history as a sanitized merging of diverse peoples to form a homogenous union. The ties to tribal heritage are too strong, the abuses of the past and present too vivid, and the memory of freedom too lasting for many Indians" (Deloria 2).



opinion achieves this in several ways. It both insists on the inevitability of Native disappearance and instantiates the legal mechanism for that disappearance by translating land into property, and preemption into title.

In one of *Blood Meridian*'s most painful passages, the Glanton gang led by Judge Holden stalk and hunt a group of Indian men, cornering them in the cavity of a defunct volcano. Holden then begins shooting wildly, and when he stops a voice calls out to him for mercy, in English and Spanish (the languages of the two "conquerors" at the North American border). The Judge says only "Gentlemen." Then

...he drew [his pistols] one in each hand and he is as either-handed as a spider, he can write with both hands at a time and I've seen him do it<sup>11</sup>, and he commenced to kill Indians. We needed no second invitation. God it was a butchery. At the first fire we killed a round dozen and we did not let up. (140)

The scene so traumatizes the kid that he can only repeat, as in a litany, "What's he a judge of?...What's he a judge of? What's he a judge of" (141). It marks the moment in the narrative when the kid begins to begrudge his membership in the Glanton Gang, an ideological betrayal for which the judge will murder him at the novel's end. As such, the passage is no mere slaughter but instead functions as condensed ideology, foundational to the sociopolitical (and sociopathic) educations of the Glanton Gang.

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<sup>11</sup> This is one of the rare instances in which the effaced narrator of the novel reveals himself, speaking in the first person. The use of the first person here is of particularly interest because the narrator is so hidden. At times it seems that the narrator cannot possibly be human, at others that he must be part of first Captain White's deployment and then the Glanton Gang. Here the first person only doubles the effect of the judge's mysterious power: as in a rumor, *someone* has seen the judge writing with both hands at once, but the source of that knowledge is always unknowable.

Similarly, in spite of Marshall's apparent ambivalence, *Johnson v. M'Intosh* is both an act of foundational violence and a statement of commitment to an organizing ideological narrative of conquest. Though the case seems straightforward enough – a property dispute in which the court was charged with deciding whether or not private citizens could legally buy land from Indian tribes – the decision is generalizing and far-reaching. Of the avenues available to interpretation, Marshall self-consciously grounds the case in The European Law of Nations. It is conceivable that Marshall could have grounded his opinion solely in the Commerce Clause, which designates to federal government the power "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes" (Article I, Section 8, Clause 3), and the Indian Non-Intercourse Acts. However, Marshall goes further. His statement is mostly dicta, and that dicta works to create a teleological narrative of discovery and conquest that Marshall goes on to support with reliance on international law. The tension between the narrative of discovery and the reality of a peopled continent forces Marshall to distinguish between "aboriginal title" and absolute title, claiming priority for the latter.

There is a moment, however, contrived, in which Holden might have shown mercy. He walks to the rim of the volcano waving a white flag. Though it makes little sense that a member of a gang of Indian-killers-for-hire would show mercy on the group of cornered men, the scene serves to perhaps even further ironize Holden's title of judge (hence the question that arises for the kid, again and again, "What's he the judge of?"). That irony extends to Marshall's opinion as well, in which the "court of the conqueror," through the colonial logic of discovery, acts as a handmaiden to the

political exigencies of conquest. Like Holden's white flag, Marshall's opinion is a false olive branch. Like Holden, Marshall "writes with both hands," as the following passage exemplifies. Here Marshall simultaneously avers that Native people have the right to "retain possession" of the soil, but then evacuates that possession of meaning by reasserting the right of Europeans to "exclusive title."

They were admitted to be the rightful occupants of the soil, with a legal as well as just claim to retain possession of it, and to use it according to their own discretion; but their rights to complete sovereignty as independent nations, were necessarily diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was denied by the original fundamental principle, that discovery gave exclusive title to those who made it. (574)

In the penultimate scene of the novel, the offense for which the kid dies is his rejection of the logic of conquest and his sympathies for the Native peoples whom he has been hired to kill. In the final chapters of the book the kid is no longer a pursuer but instead pursued by the judge, who tells him "You alone were mutinous. You alone reserved in your soul some corner of clemency for the heathen" (312). Later, coming upon the kid in a jail cell (a quality of the judge is his totalizing omnipresence) he tells the kid,

You came forward...to take part in a work. But you were a witness against yourself. You sat in judgement [sic] on your own deeds. You put your own allowances before the judgements [sic] of history and you broke with the body of which you were pledged a part and poisoned it

in all its enterprise. (319)

In the judge's particular teleology, man was made for war and war was made for history: this is the "work" to which this passage refers. The history of "man" is a history of conquest, and that is his purpose in joining the Glanton Gang (rather than for the more contingent, materialist purposes of accumulating wealth in which the other members were engaged). His dedication to conquest is what figures the Indians as savages. When the kid begins to witness the violence in terms of human cost, sitting "in judgment on [his] own deeds," he broke not only with the "body" of the gang, but of the conjoined bodies of history and law to which the judge and, implicitly, the gang, are "pledged." The kid's ambivalence has no place in the ideology of violence the judge espouses. Sympathy or humanizing is a betrayal of the cause.

When the judge finally does kill the kid, he achieves it not with the outright violence of the rest of the book, but with an embrace. The kid approaches the jakes and opens one, to find the judge inside. He "rose up smiling and gathered him in his arms against his immense and terrible flesh and shot the wooden barlatch home behind him" (347). In a novel so nearly fanatical in its descriptions of brutal and ceaseless violence, this is the only description we get of the protagonist's demise<sup>12</sup>. The kid, who has in effect become a traitor to the colonial project simply through an unspoken internal conflict (never does the kid show outward sympathy toward a Native

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<sup>12</sup> This is not quite true. The death is treated obliquely in the chapter's subheadings in two short phrases: The jakes and what was encountered there – Sie müssen schlafen aber Ich [sic] muss tanzen. The German translation, "You must sleep, but I must dance," suggests not only the kid's death at the hands of the judge, but also that the judge has invaded even this level of the narrative, which has until this last chapter been exclusively third person. So this heading also prefigures the complete ascendancy and diffusion of the judge's ultraviolent worldview.

character), is simply swallowed up or smothered by the judge. Figuratively, his resistance is smothered by the “immense and terrible” discourse of colonialism.

A resistance to expansionism, in the world of the novel, is intolerable even at the level of thought or consideration. In the last encounter between the judge and the kid in which the kid actually speaks, his anticolonial stake becomes clear. The chapter is a study on the extended metaphor of “the dance” as participation in history and therefore, inevitably, violence. The kid claims (making his position clear for the first time), “I ain’t studyin no dance” (340). Nonparticipation means death, and most importantly, death without a trace. As the judge tells the kid (shortly before killing him):

Hear me, man, he said. There is room on the stage for one beast and one alone. All others are destined for a night that is eternal and without name. One by one they will step down into the darkness before the footlamps. Bears that dance, bears that don’t. (345)

There are two bears in the novel: the grizzly that attacked the Delaware scouts, and the dancing bear that, in the scene described above, was shot in a scene of grotesque and gory violence. Both participate in the dance as the judge figures it, because the logic of conquest is pervasive and all encompassing: whether the wild bear disappears or is tamed and finally killed is the same in the judge’s imperial understanding.

There is no description of the kid after death, and he has no last words. As the kid’s part in the narrative diminishes, the judge begins to take up more and more space, both narratively and, it seems, physically, as his already massive figure dances through the final pages, finally “towering over them all” (348). “Huge and pale and

hairless,” his head becomes a “lunar dome” (348-9). As resistance is erased, the judge “will never sleep...will never die” (349).

Though perhaps a quotidian comparison given the mythic tone of the final pages, the way in which the judge (as the personified form of colonial logic) might never die is in the continual enactment of colonial violence in the maneuverings of a colonial body of law (the judge’s book, with which he seeks to erase everything other than conquest from both the pages of history and the understanding of the present).

*Blood Meridian*, though, is not the judge’s book. In that book, it is true that the kid acts as a “witness against himself.” As we have seen, though, whatever the strength of colonial discourse, McCarthy’s Indians stand witness to a whole history of violent and racist colonial Indian law that begins with the court’s unanimous decision in *Johnson v. M’Intosh*. Like the Supreme Court’s function, Judge Holden’s role is jurispathic: he records in his book in order to wipe the traces of previous cultures from human memory. By writing in his book he is in fact erasing: the essence of jurispathy. Finally, he kills the kid, too; though he claims that he acted as a “witness against himself,” the kid must be killed because he has betrayed the killing function of nationalist discourse with fleeting moments of sympathy for both Indian and Mexican people. The novel’s end leaves the judge triumphant, but, as we have already seen, he is not the author he purports to be. The sketches in his book are not erased or erasable, because they have been recorded in a book not of his own making, a novel in which Native people bear witness to the bloody crimes of Manifest Destiny, in spaces both legal and extralegal. The judge cannot kill the proliferation of meanings that arise from this bearing witness.

By suggesting this, I don't mean to impose a redemptive reading on a novel that offers no such redemption. Rather, I mean to draw attention to the way the novel refuses either to obscure or to apotheosize the violence of the colonial project. As I have suggested, violence is the medium through which all the novel's actions play out, and its brutality resists an easy translation into nationalist jingoism or mythmaking.

The novel tracks the way in which dissociation from the foundational myths of American nation building and affiliation with Native people, however slight, constitute a "bearing of witness against oneself." But the novel does exactly that labor of dissociation by producing witnesses to mythmaking. The kid only becomes the protagonist of the novel once he becomes the enemy of the judge, an event that coincides with the end of the historical material from which the plot is drawn; in other words, the kid finds affinity with the Indian witnesses to the violence of colonialism at the very moment that the judge's mythmaking detaches from historical record and takes on a life of its own. Like the Delaware scouts, his testimony ("I ain't studyin' no dance") does not simply articulate a demand to be seen or recognized as a victim of violence or history, but rather bears witness to "a pathos beyond recognition."

I would like to end by discussing a possibility suggested in this chapter's title: the notion that the witnessing performed in the novel by the kid, by the ghostly Natives, and by the reader (all of whom have affinity by the novel's end) constitutes a kind of "unsettling." By this I mean, certainly, an uneasiness in colonial discourse and an inability to fit the ordinariness of bloodshed, as depicted in *Blood Meridian*, into that discourse. But I also want to at least suggest a more literal meaning: a kind of unsettling of the spaces of settler colonialism. This, I believe, is the payoff of the famous

“optical democracy” passage: a possibility of a radical spatial/narrative democracy in which the violence witnessed by Native people can be situated side by side with, rather than under or buried by, the narrative of US settler colonialism.



## REFERENCES

- Adair, James. "The History of the American Indians." Oliver's Bookshelf. n.p., 24 Apr. 2008. Web. 24 Aug. 2015.
- Berlant, Lauren. *Cruel Optimism*. Durham: Duke UP, 2011. Print.
- Brown, Charles H. *Agents of Manifest Destiny: The Lives and times of the Filibusters*. Chapel Hill: U of North Carolina, 1980. Print.
- Byrd, Jodi A. *The Transit of Empire: Indigenous Critiques of Colonialism*. Minneapolis: U of Minnesota, 2011. Print.
- Campbell, Neil. "'Beyond Reckoning': Cormac McCarthy's Version of the West in Blood Meridian or The Evening Redness in the West." *Critique: Studies in Contemporary Fiction* 39.1 (1997): 55-64. Web.
- Cheah, Pheng. *Spectral Nationality: Passages of Freedom from Kant to Postcolonial Literatures of Liberation*. New York: Columbia UP, 2003. Print.
- Cheyfitz, Eric. *The Columbia Guide to American Indian Literatures of the United States since 1945*. New York: Columbia UP, 2006. Print.
- Cheyfitz, Eric. *The Poetics of Imperialism: Translation and Colonization from the Tempest to Tarzan*. New York: Oxford UP, 1991. Print.
- Cheyfitz, Eric. "Savage. Law. The Plot Against American Indians in Johnson and Graham's Lessee v. M'Intosh and The Pioneers." *Cultures of United States Imperialism*. By Amy Kaplan and Donald E. Pease. Durham: Duke UP, 1993. 109-28. Print.
- Cheyfitz, Eric. "The Colonial Double Bind: Sovereignty and Civil Rights in Indian Country." *University of Pennsylvania Journal of Constitutional Law* 5.2 (2003): 223-40. Print.
- Cover, Robert. "Nomos and Narrative," *Harvard Law Review* 97, 1983. Print.

- Deloria, Vine. *Behind the Trail of Broken Treaties; an Indian Declaration of Independence*. New York: Delacorte, 1974. Print.
- Emerson, Thomas E. and R. Barry Lewis. *Cahokia and the Hinterlands: Middle Mississippian Cultures of the Midwest*, Champaign: University of Illinois Press, 2000. Print.
- Ellis, Jay. "'What Happens to Country' in Blood Meridian." *Rocky Mountain Review of Language and Literature* 60.1 (2006): 85-97. Web.
- Gordon, Avery. *Ghostly Matters: Haunting and the Sociological Imagination*. Minneapolis: U of Minnesota, 1997. Print.
- 'On Indian Removal' (1830)." OurDocuments.gov. National Archives and Records Administration, n.d. Web. 25 Aug. 2015.
- Guillemin, Georg. *The Pastoral Vision of Cormac McCarthy*. College Station: Texas A&M UP, 2004. Print.
- Johnson and Graham's Lessee v. William M'Intosh. 21 U.S. 543. Supreme Court of the United States. 1823. HeinOnline. Web. 3 May 2015.
- Lincoln, Kenneth. *Cormac Mccarthy : American Canticles*. New York: Palgrave Macmillan, 2009.
- McCarthy, Cormac. *Blood Meridian, Or, The Evening Redness in the West*. New York: Vintage, 1992. Print.
- "Peter Burnett: 1851 State of the State Address." Governors of California. California State Library, n.d. Web. 21 Sept. 2015.
- Pitts, Jonathan. "Writing On: "Blood Meridian" as Devisionary Western." *Western American Literature* 33.1 (1998): 6-25. Web.
- Rives, George Lockhart. *The United States and Mexico, 1821-1848; a History of the Relations between the Two Countries from the Independence of Mexico to the*

- Close of the War with the United States*. New York: C. Scribner's Sons, 1913. Print.
- Robertson, Lindsay Gordon. *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands*. Oxford: Oxford UP, 2005. Print.
- Scott, James C. *Seeing like a State: How Certain Schemes to Improve the Human Condition Have Failed*. New Haven: Yale UP, 1998. Print.
- Sedgwick, Eve Kosofsky., and Adam Frank. *Touching Feeling: Affect, Pedagogy, Performativity*. Durham: Duke UP, 2003. Print.
- Snyder, Phillip A. "Disappearance in Cormac McCarthy's *Blood Meridian*." *Western American Literature* 44.2 (2009): 127-39. *Project MUSE [Johns Hopkins UP]*. Web. 5 Sept. 2015.
- Spurgeon, Sara L. *Exploding the Western : Myths of Empire On the Postmodern Frontier*. College Station: Texas A&M University Press, 2005.
- Wallach, Rick. "Twenty-Five Years of *Blood Meridian*." *Southwestern American Literature* 36.3 (2011): 5+. *Academic OneFile*. Web. 3 Aug. 2016.
- Williams, Robert A. *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York: Oxford UP, 1990. Print.
- Williams, Robert A. *Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America*. Minneapolis, MN: U of Minnesota, 2005. Print.
- Wood, James. "Red Planet: The Sanguinary Sublime of Cormac McCarthy." *The New Yorker*. Conde Nast, 25 July 2005. Web. 01 June 2015.
- US Const. art. 1, sec. 8, cl. 3. Print.

## CHAPTER 2

### *Dead Man Walking: Re-visioning Indian Removal in Jim Jarmusch's Dead Man*

Jim Jarmusch's 1995 film *Dead Man* takes place in 1870, and is committed in part to displaying and reimagining the West in the wake of the Jacksonian-era federal policy of Indian Removal from Native homes in the east to lands west of the Mississippi. It depicts a United States that has been patchily settled from coast to coast, and takes a dystopian view of that settlement and its repercussions for Euro-Americans as well as Native people.

The film was released to mostly miserable reviews and little box office attention. Roger Ebert wrote in his review, "Jim Jarmusch is trying to get at something here, and I don't have a clue what it is." (Ebert) Joe Baltake, writing for the *Sacramento Bee*, succinctly voiced the assessment of a whole set of the film's early critics when he wrote that the film was "staggeringly boring" (Baltake). Over the last twenty years, though, the critical reception of the film has shifted, and it is now considered one of Jarmusch's most important and generative films. It has also come to be seen as a major intervention into the Western genre, exploring and expanding the fringes of the revisionist tradition and prompting plenty of sub-genre designations: anti-Western, "post-Western," "acid western." Jarmusch has said, in an early interview about the film, that he wrote it after taking a long break during which he was reading about Indigenous life and culture. (Rosenbaum 7) Given its variously described placement within the genre and its stated sympathies with Indigenous perspectives,

both the film's status as a Western and its engagement with the Removal Act are worth querying.

The entire westward push of mid and late 19<sup>th</sup> century American settlement is condensed into the film's first scenes, which take place on a westbound train. We know that the journey begins east of the Mississippi, because the film's protagonist William Blake picks it up in Cleveland and takes it to the end of the line: a Washington state industrial outpost called Machine. The movement westward is marked cinematically in interludes while Blake dozes on his journey; when he periodically wakes, he observes his fellow passengers becoming increasingly coarse, decreasingly "civilized." In a much-examined scene on the train, a passenger spots a herd of buffalo and everyone in Blake's car save him and the train's stoker produces a gun and begins shooting the animals from the train-car's windows.

These early scenes function almost allegorically to dramatize westward expansion while resisting, with black humor, any urge to romanticize that migration. Though Blake and his fellow passengers travel by train, marking a historical moment after the completion of the trans-continental railroad, vestiges of earlier westward expansionism dot the landscape through which they travel. The train travels past broken down wagons and abandoned Native villages; the result is a compressed temporal narrative which presents, as a tableau, a history of western expansion from pioneers to industrialists. That the images are mostly of destruction or abandonment forces the viewer to countenance the waste and violence that necessarily accompanied that expansion. It is a desolate rather than a celebratory vision of the West, and in fact

the train's stoker describes it as such: he asks Blake what could possibly bring him "all the way out here to hell" (Jarmusch, *Dead Man*).



**Figure 1:** East of the Mississippi



**Figure 2:** West of the Mississippi



**Figure 3:** West of the Rocky Mountains

Once William Blake arrives in Machine, the plot mechanisms of the film are set into motion. Blake is denied the job which he came to Machine to take, as an accountant at the Metal Works; he is told he is a month too late and the position has been filled. The Metal Works' insane owner John Dickinson (Robert Mitchum) tells him that "the only job you'll get here is pushing up daisies in a pine box," telling Blake's fortune as the titular Dead Man. Blake leaves the bar, meets an ex-prostitute named Thel (Mili Avital), and follows her home where her ex-lover Charlie Dickinson (John Dickinson's son, played by Gabriel Byrne) finds them in bed together and shoots them. The bullet passes through Thel's chest and into Blake's; though Blake doesn't immediately die, the son has in effect fulfilled the father's prophecy.

William Blake kills Charlie Dickinson and flees Machine on horseback, waking up sometime later to the vision of a Native man (Gary Farmer) leaning over him with a blood-covered knife in hand. Blake is fearful, but the film immediately subverts the fear and transforms it to dark humor when we learn that the man is trying

to dislodge the bullet from Blake's heart; muttering as he works, among the first words he says are "Stupid fucking white man." Presumably, he means both Blake and the man who shot him, whose bullet grazed the heart so closely yet failed to find its mark. The joke recalls, whether intentionally or not, a genre of Apache jokes that take "stupid white man" as their punchline<sup>13</sup>, marking the first moment in the film when Native and non-Native audiences might experience viewing it differently. More broadly, though, the remark reflects the film's comprehensive critique of "the white man;" that is, of the cultural and economic institutions upon which the United States has been constructed.

The man's name is Nobody, but viewers won't learn the significance of that name until later. Rather, the strangeness of Nobody's name is subverted, because when he learns William Blake's name he is astounded, asking if Blake is playing a "white man's trick." He recognizes the name instantly, and just as quickly realizes that he must usher Blake back to the spirit world, leading him through a "vision quest" that will culminate in Blake's death (or perhaps simply his acceptance of his death). The remainder of the film's narrative is constituted by this journey, during which William Blake comes to accept and inhabit a distorted vision of his namesake, as well as fulfill Nobody's divination of his destiny as a "killer of white men."

The pair's journey quotes the Western genre in myriad ways. The two move steadily west on horseback, pursued by bounty hunters who would kill Blake for the reward placed on his head by Dickinson. However, their passage is loosely plotted,

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<sup>13</sup> See Basso, Keith H. *Portraits of "The Whiteman": Linguistic Play and Cultural Symbols among the Western Apache*. Cambridge: Cambridge UP, 1979. Print.



provisional, and often absurd, and there is nothing like a hero riding into the sunset at its end. The result is a film that has defied easy generic categorization, though it is probably the most recognizably “Western” of any of the texts treated in this dissertation. Justus Neiland, in a 2001 piece about the film, summarizes nicely the range of generic possibilities brought forth by critics when he writes, “it has variously been called a meditation on death and transfiguration, an allegory, a vision quest, a tone poem, an acid Western, an anti-Western, a revisionist Western, a ‘fairy-tale western that howls in the moonlight’(!), a political film, a metaphysical journey, and a poetic dismissal ‘of the United States of America’s very existence’” (172-3). The final description detailed is from Kent Jones’s 1996 *Cineaste* review of the film, and it comes at the end of a fairly comprehensive statement about the film’s intervention into the Western genre:

In Jim Jarmusch’s *Dead Man*, there is no American West. There is only a landscape that America the conqueror has emptied of its natives and turned into a capitalist charnel house. The western is the American cinema’s pride and joy...But even during the heyday of the ‘anti-Western...there was nothing as bluntly dismissive of the United States of America’s very existence as Jarmusch’s cinematic poem of embitterment. (Jones 45-6)

Although this statement about the film’s singularity is certainly no longer (if it ever was) true in a film genre that has since given us *There Will Be Blood* (2007), *No Country For Old Men* (2007), and most recently *The Hateful Eight* (2015), it speaks powerfully to the ways in which the film both quotes the dominant narratives and

topoi of the Western in order to distort, tease, and undermine them. Perhaps the most controversial of the ways the film distorts and even parodies the Western generic form is its portrayal of its main Native character: Nobody. Critics and scholars of the film have debated the character's role and depiction without much consensus. It is worth tracing some of the main threads of this debate as a precursor to my own discussion, which revises the most commonly asserted interpretations of Nobody.

Some critics praise the film for presenting an "authentic" Native voice, noting particularly that Nobody has specific tribe and clan affiliations, and speaks untranslated Blackfoot and Makah dialects. The Native languages included in the film have also been noted as a means by which the film situates itself for Native audiences; for example, when Blake interrupts a sexual encounter between Nobody and an un-introduced woman in the film, the woman shouts at Blake in her native language before running away. Nobody apologetically intervenes, telling Blake, "She didn't mean that" (Jarmusch, *Dead Man*). Critics have suggested that the joke for non-Native audiences is that we don't get the joke; the joke for Native audiences is what the woman actually says. It is worth noting the obvious, however, that in fact the joke would only be relevant to speakers of the actual language in which it is spoken; there is no "Native language." Jim Jarmusch himself has claimed the film is for Native audiences, even as he acknowledged that few Native people had seen the film, in comparison with its fairly numerous western viewers.

On the other side of the interpretive coin, critics have taken exception to Nobody's portrayal, and Jarmusch's appeal to Native viewers.<sup>14</sup> These critics have tended to cast Jarmusch's interest in Native audiences as curricular—problematically teaching tribal people something about themselves—and point to the troubling relationship of a white director who “establishes [himself] as more expert than the Indian on Indian matters” (Hall 7). This reading suggests that the problem with the film is, in part, that its portrayal of Native life is mediated through the gaze of its white director, and therefore necessarily problematized; or more directly, that it is necessarily “white-washed.” Such a reading also presumes that there is a unified “Native” perspective, another stereotype of course.

Some of these same critics have been similarly troubled by Nobody, particularly in regards to his name and to his status as an outsider to the tribes with which he claims affiliation. These critics argue that Nobody – even down to his name – embodies the *topos* of the Vanishing American. Thus, Nobody becomes a Native ghost: his character is so overwritten by (and therefore compromised by) the “white” voice that anything “Indian” about him is absented.

In this argument, Nobody's name and his story are symptomatic. We learn soon after he meets William Blake that Nobody's given name is “Exaybachay”<sup>15</sup>: “He

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<sup>14</sup> See, for example Porcari, George. “Nobody's Vision: Jim Jarmusch's Dead Man.” *Cineaction*(2012): 25-27. *International Index to Performing Arts*. Web. 1 May 2016, in which Porcari writes that Nobody is “neither fish nor fowl.”

Or Hall, Mary Katherine. “Now You Are a Killer of White Men: Jim Jarmusch's Dead Man and Traditions of Revisionism in the Western.” *Journal of Film and Video* Winter 52.4 (2001): 3-14. *JSTOR*. Web. 16 Apr. 2016.

<sup>15</sup> This word, as best as I have been able to tell, is from the Crow language. “Bachee” means “man” in Crow. All spellings of non-English words are taken directly from the

Who Talks Loud, Saying Nothing.” He was given the name after being captured by whites while out hunting as a child, and sent east “in a cage” for exhibition. Eventually he was even forced to travel across the Atlantic, where in an effort to escape his incarceration he began to learn the English language and customs. Here he was introduced to the poetry of William Blake, which spoke powerfully to him in his isolation. But when he returned as a young adult to his tribe, he was ostracized because his stories were unbelievable and given the name Exaybachay. Alone, outside the tribal context, he is quite literally “Nobody,” and that is the name he prefers.

Likewise, although not to my knowledge mentioned in the film’s literature, the name Nobody is firmly rooted in the Western canon. In Homer’s epic, Odysseus dons the name to outwit the man-eating Cyclops Polyphemus and eventually kill him. One apparent reading of the film’s evident allusion to Homer’s *Odyssey* is a passing over of Native mytho-poetic stories and their functions in favor of a canonical Western *mythos*. In other words, we might read this as simply another example of absencing the Indian, and of forcing a Native character to become legible for western audiences by ventriloquizing western cultural forms. Though I will challenge this argument in what follows, it is first important to see the case through to its logical conclusion.

The crux of the problem is, in this reading, that Nobody is himself a victim, discursively and materially, of the psychosocial agenda associated with the Vanishing American. He is partially assimilated to European culture and completely sequestered from a tribal context (though it must be noted that this sequestration is achieved, at

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film transcript cited at the end of this chapter, and are phonetic transcriptions. The exception is in a passage on the following page in *Blackfoot*, where accepted contemporary Blackfoot spellings are inserted.

least in part, on Native terms: Nobody tells Blake . “My blood is mixed. My mother was Aamsskáápipikani. My father is Apsalooké<sup>16</sup>. This mixture was not respected.” This seems to be at least an attempt to highlight Native social norms around clan inter-marriage). (Jarmusch, *Dead Man*) As a result, he has no clear place in Euro-American or Native society, and as far as the viewer can tell was completely alone before encountering the accountant William Blake.

To complete this reading of Nobody as a Native ghost, critics note that Nobody’s voice is regularly co-opted by the voice of the poet William Blake, whom he quotes throughout the film and whose poetic dictums are consistently misinterpreted by the accountant William Blake as “Indian malarkey.” (Jarmusch, *Dead Man*) Mary Hall has claimed, for instance, that Nobody’s quotations of Blake “have the effect of erasing anything peculiarly Indian about Indian wisdom” and proposes that “The Indian thus becomes an unnecessary redundancy, for if white audiences can derive the same philosophy from Blake, the need not bother with Indian culture at all” (8).

The disadvantage of both of these styles of reading the film—and Nobody in particular—is, for me, the reliance on the “authentic” Indian as a standard for meaning-making. Scholars who praise the film for portraying an “authentic” Indian tend to rely on linguistic arguments and the sacredness, in the film, of both tobacco

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<sup>16</sup> Thanks to Professor Mizuki Miyashita of University of Montana’s Blackfoot Language Group for providing these spellings of the Blackfoot and Crow words for the Southern Piikani and Crow Nations, from the clumsy phonetic transcriptions offered in the film transcript. Inexplicably, those phonetic transcriptions (“Ohm-gahpi-phi-gun-ni” and “Abso-luka”) pop up again and again in critical writing about the film, rather than being replaced with the accepted spellings from contemporary Native language groups.

and peyote. This argument runs the risk, however, of marginalizing Native experiences that fall outside what the critic deems as authentic. In fact, for example, a census document from 2011 found only 372,095 Native language speakers among an estimated population of 2.9 million Indigenous people in the United States. (“Native North American Languages Spoken at Home”) Relatedly, these critics postulate specific “traditional” cultural practices as central to the authenticity of Native expression. Jarmusch himself finds recourse in emphasizing his work with “authentic” practitioners of “traditional” Native cultures. He tells Jonathan Rosenbaum in an interview, “Our cultural advisor...is a member of the Native American Church and even uses peyote ceremonially’ (Rosenbaum 35). In the same book, Rosenbaum quotes a Master’s thesis in Anthropology by Todd J Tubutis that notes that at the Makah settlement that is Blake’s final destination, “great pains were taken to ensure authenticity” (Rosenbaum 49). Tubutis claimed that Jarmusch modeled the village with great accuracy, decorated the set with museum artifacts and original Makah artwork, and “hired a First Nations Cultural Advisor to effectively ‘certify’ the set as appropriately ‘Native’ (Tutubin, qtd. in Rosenbaum 49).

I do not wish to downplay the potential importance of moves like these, particularly within the context of a genre that has consistently portrayed Native people as savage stereotypes. It is remarkable in a Western to see any representation of Pacific Northwest peoples, much less one that hews so closely to accepted Makah practices and aesthetic conventions. However, it must be noted that the logical conclusion of these insurances on cultural authenticity is the same as the insistence on linguistic “authenticity”: an embedded suggestion that Native people who do not

participate in “traditional” cultural forms are somehow less Native. It reinterprets cultural “Indian-ness” from the dynamic to the static, a shift that is not without consequences. It also runs the risk of portraying Native cultures as static rather than dynamic. Jarmusch’s comments on the Native American Church, for instance, draw attention to peyote as a sacred plant and traditional prayers to the four directions, but disregard the fact that the religion is a relatively new one, originating in the 19<sup>th</sup> century southwest, and represents one of the earlier truly Pan-Indian movements.

Furthermore, authenticity is not an uncontested construct among American Indian scholars or activists. Joanne Barker’s 2011 monograph *Native Acts* is particularly helpful on this point, reminding us that that very question of authenticity has been mobilized in efforts to disenfranchise Native people in such various modes as federal recognition, internal tribal disenrollment practices, and who can participate in various cultural institutions, including marriage (Barker, 1). She points out that “Linguistic and biological differences [are] assumed to provide scientifically ‘objective’ and ‘reasonable’ indications of cultural authenticity” (Barker 4). Particularly importantly for this discussion, authentic “Indian-ness,” imposed and interpreted by non-Native interlocutors, was at the heart of the question of Removal and later policies of Allotment and tribal enrollment (Barker 4).<sup>17</sup> And the ways in

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<sup>17</sup> For more on how these issues intersect with identity, see the following: Sturm, Circe. *Becoming Indian: The Struggle over Cherokee Identity in the Twenty-first Century*. Santa Fe: School for Advanced Research, 2011. Print

which that authenticity was marshaled for Removal demonstrates its slipperiness and malleability in the service of a particular political project.<sup>18</sup>

Eva Marie Garrouette points out further dangers of the trap of authenticity, reminding us that the other side of that particular ideological coin is identity erasure. In a chapter entitled “What if My Grandma Eats Big Macs?,” she looks to a trial involving a number of self-identified Mashpee people to enumerate the ways in which “cultural authenticity” is a slippery slope, an ever-shifting ground on which the answer to the question “Who has it and who doesn’t?” is both ever-present and unanswerable. The consequences of the question of authenticity for the Mashpee were stark: the land claims they asked for in the suit were disallowed “on the grounds that they were not a tribe and therefore did not have standing to sue” (63)<sup>19</sup>. This is an example of when cultural identity rooted in the “traditional” supplanted a more fluid, dynamic understanding of identity, leading to the legal erasure and dispossession of a group of Native people through the discourse of authenticity.

In other words, authenticity—always a moving target—is particularly fraught in discussions about Native American people and cultural institutions, and—importantly—have lived consequences for Native people. Arguments that critique the film for failing standards of authenticity face similar limitations. These critiques raise

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<sup>18</sup> See particularly United States. Commission to the Five Civilized Tribes.. *The Final Rolls of Citizens and Freedmen of the Five Civilized Tribes In Indian Territory*. Baltimore, Md.: Reprinted by Genealogical Pub. Co., 2003.

<sup>19</sup> The Mashpees gained federal recognition in 2007. See Toensing, Gail Courey. "Mashpee Wampanoags' Quest Ends with Federal Acknowledgement." *Indian Country Today Media Network.com*. Indian Country Today Media Network, 25 Feb. 2007. Web. 01 Aug. 2016.



questions about what constitutes Indian-ness. Is Nobody's "Indian-ness" compromised by quoting the poet William Blake or undermined by his ostracization from a tribal context? Answering "yes" risks the positing of an essentialist "authentic" Indian at the expense of more complex and inclusive definitions.

What's more, these arguments place the film's representations in a double bind. Again turning to Hall, we find that in her viewing of the film to have Nobody quote Blake is to absent the Indian voice, while at the same time "the purported realism of Indians in...Westerns serves as much to support traditional ideology as critique it, for if everything else about the Indian is authentic, so too must be his doom" (8). It seems that in its representations of Native people, the film is "damned if it do, damned if it don't."

To insist on this point is not to attempt to avoid questions of whether the film misrepresents the Native people with whom it sympathizes, nor is it to give the film a "get out of jail free" card because of those sympathies. Rather, it is to allow a different kind of reading of the film's Native characters that admits of a more pliable construction of Native life than the framework of the "authentic" can allow. Moreover, and more speculatively, it is to suggest that perhaps that in choosing to portray Nobody as acting within a zone of contact with Europeans and Euro-Americans, the film actually instantiates an embedded critique of the very legal, social, and governmental structures that rely on the authentic Indian for their discursive power.

I would like to suggest instead that, beyond the cultural authenticity that the film is obviously at pains to portray, it offers a way of envisioning "Indian-ness" as a post-invasion designation that entails a shared history of oppression and colonization.

That is, in its starkest terms, there are no Indians without colonizers. *Dead Man*'s Nobody is unquestionably a representation of Indigeneity, but at the same time the character is not tied to any one tribe, cultural, or racial affiliation. When asked his origin story, he relates both his early tribal experiences (which were primarily of isolation because of his mixed status) and—importantly—his capture, enslavement, and education by Europeans who toured him around the Eastern U.S. and London in a cage, as a “young savage.” (Jarmusch) Thus the film offers Nobody as an example of Native survivance—Gerald Vizenor's term for Native survival and resistance in the face of colonial violence—and his role as spirit guide to William Blake as a kind of revenge plot to the colonial violence he has experienced first-hand.

#### *Dead Man as a Critique of Removal*

*Dead Man* offers alternatives to the problematic double bind of identity discussed above, both in its studied absurdity and in its pointed critique of Native American genocide and the political formations (particularly, as I will argue, The Removal Act) that underpin it. In what follows, I will offer my own readings of the examples above, as well as delineate what I see as the film's comprehensive critique of Removal and its aftermath. My reading will begin with the film's critique of the political history of Native genocide, including the Removal Act, and will go on to address the film's aesthetic concerns relative to that critique. Furthermore, I will demonstrate the ways in which the film reverses the topos of the Vanishing American, replacing it with the white man as a predestined “dead man.”

To the point above (that the film perhaps offers a more ductile vision of Native-ness than authenticity affords), we can look to the way Nobody envisions his

role as a guide for William Blake, and inaugurates a vision quest which will both facilitate the accountant's transformation back into the poet, as well as usher the poet back to the Spirit World, where Nobody is sure he belongs. It would be a considerable misunderstanding to interpret this suturing of Native practice and English poetry as an assimilationist absencing of "the Native." Certainly, the journey through the American wilderness is a way of linking and reinterpreting the Old World through the contexts and devices of the New. This might lead one to read Nobody as a cipher for other tensions between European and Euro-American vocabularies in the film. Such a reading could be supported by looking to a particular scene in which Nobody kills a deputy who attempts to shoot William Blake and collect the reward on his head. When he falls, his head lands in a cold fire pit. In the following scene, the bounty hunters who pursue Blake and Nobody come across the carnage; one remarks that the deputy looks like a "Goddamn religious icon," before stepping on and graphically squashing the fallen man's skull. (Jarmusch)

Reading Nobody as the vehicle through which such a scene plays out (he does, after all, kill the man, inadvertently creating the offensive "religious icon"), one may be tempted to read him as a transit (to borrow a term from Jodie Byrd) through which Old World and New World tensions collide. Still, though Nobody may indeed emblemize in certain ways the tension between Old World "civilization" and New World "savagery," he is far from a cipher; instead, he constantly remolds and re-visions those tensions in the context of his own unique experience and cosmovision<sup>20</sup>.

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<sup>20</sup> I use "cosmovision" in the sense of Hatse and De Cuester: "Cosmovision refers to how a given cultural group views the structure and order of the cosmos, including its

The most obvious example of this is the way in which Nobody quotes, and in fact owns, the poetry of William Blake. He speaks the poet's words throughout the film, always without citation and always with such familiarity that the words become his own. In fact, a viewer not familiar with the poetry of William Blake would assume that the words were Nobody's, especially given the way he uses the poet's language to answer specific contextual moments in the film. For instance, when accountant William Blake—pursued by bounty hunters—asks him what to do next, Nobody answers, “The eagle never lost so much time as when he submitted to learn from the crow.” Nobody is not saying these things in order to give William Blake a lesson in British Romantic poetry. Rather, he is hoping that through hearing the words the accountant will come to recognize himself, in the tradition of the Spirit Quest, and finally claim his namesake. The distinction could hardly be more important; it is the key to understanding Nobody's character as a figure who transforms non-Native poetic discourse into a Native mode of understanding, and consequently translates William Blake, from a prop for the capitalist “Machine” built on the settler complex, to a “killer of white men.”

In other words, though Nobody is indeed partially voiced by the poet William Blake, he does not simply become a cipher for Blake's poetry; rather, he uses it to his purposes, and in the process transforms its meanings and forms. Rarely does Nobody

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creation, its future, and the relationships between all its components.” See Hatse, Inge, and Patrick De. Ceuster. *Cosmovisión Y Espiritualidad En La Agricultura Q'eqchi': Un Aporte Para La Revaloración Y El Fortalecimiento De La Agricultura Tradicional Q'eqchi'* Cobán, Guatemala: Ak' Kutan, Centro Bartolomé De Las Casas, 2001. Print.

quote more than a single line or couplet of the poems. By extracting contextually meaningful lines in this way, Nobody deliberately imports metaphors and meanings while divorcing the poetry from its European context. The poems make new meanings when spoken by Nobody. He uses them to both teach and tease accountant William Blake. Following Native critic Gerald Vizenor, we might recognize this mode of instruction as a particularly Native cultural form: Nobody heeds Vizenor's call "to create innovative narratives and poetic scenes that tease and reveal the fusions of native ethos, transmotion, and stories of survivance" and force William Blake to see the truth of colonial violence through his use of "Indian malarkey."

What is more, Nobody's instruction—undertaken partially in the words of poet William Blake—effects a real change in accountant William Blake and transforms him from a cog in the capitalist "Machine" that underpins Manifest Destiny into a "killer of white men" whose gun has replaced his pen. When Blake boards the train to Machine in Cleveland, he metaphorically boards an ideological train as well. He is an educated man from an eastern city off to seek his fortune in the American West. Though he takes his journey relatively late in the story of settlement (it will be only another 20 or so years until Frederick Jackson Turner announces the closing of the western frontier) and he is a far cry from a pioneer, the ideology that informed those early settlers is still very much operational for Blake. Though Blake doesn't seek wide expanses of "free land," he has internalized the doctrine of Manifest Destiny insofar as he hopes to find easy and guaranteed work in the newly industrialized west. This allows the film to gesture to two important premises: first, that Manifest Destiny underpins and props up U.S. industrialism, and second, that its particular convictions

were always already bankrupt. Machine is a filthy, immoral wasteland, and William Blake is denied his guaranteed job and quite literally laughed out of the factory where he hoped to ply his trade.

Nobody's intervention forces Blake to recognize this bankruptcy (that he, in propping up industrialism, has both facilitated its violence and vacated his own poetic birthright, becoming a "dead man"). But his intercession does not end with recognition or critique; rather, he helps transform Blake into a force for vengeance against the constructs of Manifest Destiny and, when he is satisfied that Blake has reached sufficient affinity with a distinctly Native epistemology, quite literally pushes him off the Western coast of the continent. This final undertaking enacts a darkly humorous reversal of Indian Removal, and rhetorically binds Manifest Destiny and Removal with a metaphorical gesture. A white man is literally removed from the North American Continent from the imaginative location of Manifest Destiny's furthest reach. The logical extension of the westward push across the continent, then, becomes the "removal" of non-Natives beyond the westernmost U.S. territory and right off the edge of the continent.<sup>21</sup>

#### *Dead Man as a Critique of Removal*

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<sup>21</sup> This metaphorical reading is challenged by the scene that follows Blake's continental removal via Makah sea canoe. Blake looks back to shore at Nobody, only to see him dramatically murdered by one of the bounty hunters that had been pursuing Blake himself. As he dies, Nobody turns and kills the bounty hunter as well. The scene is played as silent melodrama, much like a scene in one of the earliest silent Westerns. However, the scene also revises the themes of conquest that were so common in early westerns. Earlier in the film, Nobody asks Blake an important question: "Did you kill the white man who killed you?" This final scene allows Nobody to answer his own question: as he falls, he kills his killer, a plot mechanism through which the film denies a simple narrative of white domination.

On January 8, 1830, Alfred Balch, friend and future Commissioner of Indian Affairs to Andrew Jackson penned the President a letter exalting states' rights and enumerating the horrors of central power. He ended the letter this way:

I flatter myself that Mr. Bell will do justice to the interesting subject committed to his charge as Chairman of the Committee of Indian Affairs. The removal of the Indians would be an act of seeming violence. But it will prove in the end an act of enlarged philanthropy. These untutored sons of the Forest, cannot exist in a state of Independence, in the vicinity of the white man. If they will persist in remaining where they are, they may begin to dig their graves and prepare to die. (Balch)

A month later, on February 22, the first bill that would become the Indian Removal Act was introduced to Congress by Senator Hugh White. The bill was “to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal West of the river Mississippi” (S. 102). The Act, which would pass the House (by four votes) and Senate (by nine votes) that May and be signed into law by Andrew Jackson on May 28, 1830, drew legal permission from *Johnson v. M'Intosh* and reflected a sense of urgency to reconcile federal and state powers while allowing the states to claim more territory, expanding their borders.

As the quote above demonstrates, the policy of Removal and the discourse of Manifest Destiny were closely tied since the Act's inception. Jackson's own words regarding the urgent necessity of the act follow the same pattern:

Surrounded by the whites with their arts of civilization, which by destroying the resources of the savage doom him to weakness and decay, the fate of the Mohegan, the Narragansett, and the Delaware is fast over-taking the Choctaw, the Cherokee, and the Creek. That this fate surely awaits them if they remain within the limits of the States does not admit of a doubt. Humanity and national honor demand that every effort should be made to avert so great a calamity.

Jackson draws on the discourse of Manifest Destiny to suggest that the “fate” of Southeastern Native people not removed from state boundaries would be “weakness and decay.” He does this in part by suggesting a chronology of inevitability: just as Northeastern tribes were doomed by their interaction with civilization, so would be Southeastern tribes. To suggest that the “arts of civilization” are to blame for the destruction of Northeastern indigenous cultures is to admit of no alternatives; rather than enumerating the acts of violence and warfare (mechanical and biological) that diminished the populations of Northeastern tribes, Jackson suggests that it is the mere proximity to civilization that devastated them. Thus, in the tautological logic of this argument, Native people can only avoid destruction if they avoid civilization; that is, if they are removed west of existing state boundaries. This logic also allows Jackson to avoid voicing his less noble-sounding reasons for Cherokee, Choctaw, and Creek removal: gold had been discovered in western Georgia, and the state and its citizens were gunning hard for Indian territory.

The language of the Removal Act itself extends the idioms of Manifest Destiny in order to suggest that tribes were doomed to extinction and combines that notion



with the fiction of fair exchange for lands west of the Mississippi. Thus the Act doubly erases the very violence it will perform, under the guises of inevitability and negotiation.

The Removal Act begins with a straightforward description of its purpose as “An Act to provide for an exchange of lands with the Indians residing in any of the states or territories, and for their removal west of the river Mississippi.” (4 Stat. 411) Nowhere in this description, though, is the suggestion that this exchange and removal would be forced and nonconsensual. In fact, the following paragraph goes on to make that point even less distinct:

Be it enacted...that it shall be made lawful for the President of the United States to cause so much of any territory belonging to the United States, west of the river Mississippi, not including any state or organized territory, and to which the Indian title has been extinguished...to be divided into a suitable number of districts, for the reception of such tribes or nations of Indians as may *choose to exchange the lands where they now reside, and to remove there*...(4 Stat. 411 s. 2, emphasis added)

The illusion of choice presented in the Act’s first paragraphs frames the debate as an exchange among equals under the law, a choice that subtly asserts the applicability of U.S. law to Indigenous Nations, rhetorically diminishing their status as sovereign nations (a rhetorical and legal strategy that had already been put in motion by *Johnson v. M’Intosh*). The language of voluntary removal (and the use of the verb “remove” in its non-transitive form – i.e. Native people *remove* rather than the U.S. government

*removes them*) affirms Jackson's insistence that the Removal Act is in fact a boon for Native people. That its enforcement through forced removal was so widely divergent from the language of the Act demonstrates well how the language here is coded to obscure violence in the terms of benevolence.

Given these slippages in the opening of the Act, its subsequent sections—which outline the benefits and considerations to be extended to tribes upon removal—can hardly be said to inspire confidence. Section Three of the Act asserts that “it shall be lawful for the President solemnly to assure the tribe or nation with which the exchanges is made, that the United States will forever secure and guaranty to them, and their heirs or successors, the country so exchanged with them” (Section 3), and goes on to add that “such lands shall revert to the United States, if the Indians become extinct or abandon the same” (Section 3). What the Act achieves here is a melding of the topos of the disappearing Indian (popularized by this time not only in political but in literary discourse; James Fenimore Cooper's *Last of the Mohicans* was published in 1826) and the discourse of Natural History (Georges Curvier proved extinction in animals in a 1796 paper) to produce once again a diminished sense of Indian title that would “revert” to the United States once tribes became “extinct.” Thus the obligation of the federal government is cast as optional (or at least excessively beneficent), and perhaps temporary as well.

In fact, this dynamic of empty promises has played out exactly as one would expect. Despite assurances to the contrary, U.S. land speculation continued west of the Mississippi, either by individuals who the government failed to prosecute and finally

supported (as in the case of the Black Hills<sup>22</sup>); or by the government itself, as in the case of the Long Walk of the Navajo<sup>23</sup>. The Indian Removal Act provides the legal framework on which these removals were hung.

*Dead Man* represents a direct critique of the Indian Removal Act of 1830 in three specific ways: first, it re-narratives Manifest Destiny, and discloses its violences by reversing them; that is, visiting the violences of colonialism on their perpetrators (European Americans) as well as rhetorically replacing the archetypical “Indian Killer” (as we saw in *McCarthy*) with a “Killer of White Men.” Second, it decentralizes the narrative of white property ownership and reclaims the land as a sacred and living space; and third, it represents the reservation itself as a spectral place. At the same time, the figure of the Native ghost is significantly complicated in this film through multivalent affinities between Blake and Nobody. As the two move westward on their passage, they follow the flight paths of Removal to its final destination on a coastal reservation. As they travel, the landscape around them and the violence wrought over it becomes infused with poetry, affecting an epistemological shift in European and Euro-American intellectual history by offering a re-interpretation of American land as the antithesis of property as understood in western

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<sup>22</sup> In 1874 General George Armstrong Custer announced a gold discovery in the Black Hills in South Dakota, which were part of the Great Sioux Reservation. When non-Natives began illegally mining in the mountain range, The United States unilaterally claimed the land under the Maypenny Agreement.

<sup>23</sup> In 1864 the Navajo were pushed off their ancestral homelands on a forced deportation to Bosque Redondo by the United States government. The tribe was permitted to return in 1868; however, thousands of Navajo people died on the walk and during the subsequent internment in Bosque Redondo.

legal parlance, and a theoretical blending of Native epistemologies and the poetry and philosophy of William Blake.

These critiques are particularly salient because they demonstrate that, in *Dead Man*, Native people are not simply “vehicle[s] for understanding the white man” (Pearce 202). However, the film also does not shy from documenting effects of violence on Native people. As Amir Ahmadi wrote for *Angelaki*, that documentation is in fact a central part of the film’s aim. Ahmadi and Ross write, “In *Dead Man*, Jarmusch...treats a way of life at the point at which it begins to be pushed into the background of the historical ‘past.’ Crucially, it does so by staging the story of an individual (Blake) who, despite being an ‘outsider’ to the way of life that is threatened, is somehow ‘inducted’ into it” (180). The importance of this shift is documented from the film’s earliest scenes, when the train passengers’ shooting of the buffalo, juxtaposed against destroyed and abandoned Native settlements, comes to stand in for the wholesale genocide and removal of Native people. However, as Ahmadi and Ross rightly point out, just as important as the implicit violence against Native people is Blake’s involuntary “induction” into a threatened way of life. In other words, in this film there is no one-way assimilation or “disappearance” of cultural forms; rather, the film portrays a “contact zone:” the film’s American West is not so much absent as it is co-constituted, something that can be both shared and at the same time constructed radically differently under the influence of different epistemologies. The film’s critics often overlook this intervention, but it is a crucial one. By shifting the perspectival focus, *Nobody* recontextualizes the poetry of William Blake within the conceptual framework of the Spirit Quest, dramatizing a heterogeneity of the

American West that emphasizes mutuality and troubles any unidirectional or teleological narrative of that landscape and the narratives that shape it.

Indeed, *Dead Man* enacts a critique of the narrative of Indian Removal itself. As we have seen in the previous section, it does so in part by foisting that narrative onto the non-Native character William Blake. Blake, pursued by agents of a capitalist scion, is pushed westward throughout the film (an irony, since the pursuit begins in Washington state, a suggestion in itself that the predations of Manifest Destiny are never satisfied). As he moves westward, he loses the trappings of his place in that system: his plaid suit is exchanged for a bear skin, his glasses are removed—Nobody remarks that perhaps he will see better without them—and his face is painted with a fawn's blood as he becomes more deeply embedded in a spiritual landscape and deepens his affinities to the Native perspectives espoused by Nobody. As those affinities deepen, he simultaneously becomes more intolerable to the film's non-Native characters (all of whom seek to kill him) and more accepted by the film's Native characters, so that by the end of the film the Makah agree to make him a sea canoe to complete his spiritual journey, and he is finally given a twist of tobacco to facilitate his passage. It is no accident, in this narrative of transformation coupled with forced removal, that once Blake completes his conversion to a killer of white men, his presence on the continent becomes altogether untenable, and he must be removed from it completely. Interestingly, this reversal of the narrative of Removal also complicates the topos of the Native Ghost: in this film, it is the non-Native character who becomes increasingly gaunt, liminal, spectral. Though he does become increasingly empathetic to Native ways of being, he never "becomes" Native: to the last, when he finally has

the tobacco he needs for his journey, he tells Nobody “I don’t smoke” (Jarmusch). Though, as I have been suggesting above, Native identity is far from static and one need not “smoke” to be Native, the joke emphasizes the durable cultural divide between Blake and Nobody.

Aside from the narrative, the film critiques Removal specifically in two ways. The first is to re-imbue the landscape of the American west with spiritual significance, denying its flat interpretation as property to be either bought or conquered. The white-dominated landscapes in the film are bleak and barren, signifying the imaginative poverty of land figured as property. This is true of the abandoned and partially destroyed landscapes seen from the train and mentioned before, but especially for the town of Machine and, more complicatedly, for the Makah reservation. As is evident in the images below, the two settlements are mirror images of one another, with a few important disparities.



**Figure 4:** First view of Machine



**Figure 5:** First View of the Makah Reservation

Machine, as Figure 3 makes clear, is a dirty and disordered frontier town with an industrial concern as its social and economic epicenter. The metal works, a plume of black smoke rising from its stack, literally and imaginatively dominates the landscape. Blake must traverse the entire town to reach the metal works, and as he does he is confronted with the desolation of everyday life in the town. A prostitute fellates a man in plain view, a lone woman stares at Blake blankly as she rocks a baby, the busiest business in town besides the metal works seems to be a coffin-builder, who is in the midst of finishing a pine box as Blake walks by. The land itself is barren; there is no greenery. (This is a point driven home a few scenes later, when Blake meets Thel, who vainly attempts to bring some beauty to the town by selling paper flowers.) The only part of the town with any kinetic energy is the plant itself, with its grinding gears and thrusting pistons much larger than the men who work them. The implication is transparent: a community built on an extractive industry, predicated on an extractive

system in which land is inert, is philosophically and morally bankrupt. The west, as a site of the American Dream, fragments under the film's oppressive images of capitalism.

The Makah reservation reflects this same dogma as refracted through the lives of Pacific Northwest Natives. Some of the *Dead Man's* critics, including Rosenbaum, stress the cultural accuracy and vibrancy of the film's portrayal of the Makah. It is a testament to the film's Makah actors and set-builders that this has been the predominant theme in the criticism, given the barrenness and even spectrality of the reservation. In the first shot of the reservation, we see a litter-strewn street just as barren of flora as Machine. Like Machine, the streets are lined with animal bones. As Blake stumbles through the town toward the longhouse, he passes familiar figures: a lone woman rocking a baby, two men preparing a traditional Makah burial. As figure 4 shows, our first view of the Makah people is shrouded in white smoke; they are silent in every scene, inviting a reading of them as spectral, in a liminal space between cultural life and death. However, the difference between the reservation and Machine is, essentially, survivance.

Survivance entered the literary critical lexicon when Jacques Derrida used the term to describe a spectral existence, between life and death. However, in his foundational book *Manifest Manners*, Gerald Vizenor reworks the term to propose not a liminal state, but an active presence in the face of seemingly impossible-to-survive circumstances. Vizenor writes that "Survivance is an active sense of presence, the continuance of native stories, not a mere reaction, or a survivable name. Native survivance stories are renunciations of dominance, tragedy and victimry" (Vizenor



vii). Just as Vizenor rethinks a term from European philosophy to reclaim active presence from spectral nonexistence, the Makah characters in the film practice traditional cultural forms even in the impoverished context of the reservation; the result is the suggestion not just of mere cultural survival, but of active resistance to the reservation system that would seek to circumscribe Native cultural life and physical presence to perpetuate the myth of free land and unlimited opportunity for non-Natives in the west (myths that have already been belied by the appearance of Machine).

All of this represents a direct critique of Removal and (perhaps even more trenchantly) its aftermath in the form of Indian Appropriations Act, which created reservations, by exploding the myths that underpinned that legislation and exposing the poverty displacement created. Though Removal isn't mentioned, its enactment forty years before the setting of the film is the stage on which the film's action unfolds. There could be no westward migration, no transcontinental railroad, no Machine, without Removal. The visual economy of the mirrored scenes of Machine and Makah compresses and intensifies the film's critique of Removal, exposing the bankruptcy of Manifest Destiny and the violence that ideology created in two short scenes. Conspicuously missing on the reservation are the provisions promised in the Removal Act: aid, protection (Nobody is killed on the reservation the film's final act of violence), stability. Instead, the Makah continue to live and resist within the context of the reservation, and willingly agree to facilitate the white man's journey westward, beyond the borders of the continent.

*Coda*

On May 3, 2016 *The New York Times* ran an article headlined “Resettling the First American ‘Climate Refugees.’” The article detailed the predicament of the residents of an island off the coast of Louisiana, Isle de Jean Charles, who have had to cope with near-constant flooding and erosion that has sped up exponentially in the last several years. Residents of the island are already overwhelmingly poor, and many can’t make it to jobs on the mainland when the one road off the island is flooded. The island’s populace has been granted a first-of-its-kind “Climate Resilience” grant of \$48 million dollars to move the entire community from the island and resettle them elsewhere. The residents of the island belong primarily to two Native groups: the Biloxi-Chitimacha-Choctaw and the United Houma Nation. (Davenport and Robinson)

Though Chief Albert Naquin of the Biloxi-Chitimacha-Choctaw has pushed for the climate grant that has finally allowed for the community to move, other community members are divided, and many wish to stay on the land, which they characterize as the land of their grandfathers. Chief Naquin himself told the *Times* reporters, “We’re going to lose all our heritage, all our culture. It’s all going to be history.” (Davenport and Robinson) Other community members have stridently opposed the resettlement, and have refused to move altogether.



**Figure 6:** Sign erected at the entrance to Isle de Jean Charles

In 2014, ProPublica issued a report about the island. The report, titled *Losing Ground*, said that the swift and extreme erosion along Louisiana’s southeastern coast might lead to “the largest forced migration for environmental reasons in the history of the country” (Marshall, Jacobs, and Shaw). The report cited flood protection projects and increased oil and gas production in the Mississippi delta as the main causes of erosion along the coast.

It is worth noticing that this first “removal” due to climate change—meant, if we are to credit the ProPublica report, to forestall the necessity of a “forced migration”—recapitulates certain themes of Indian Removal. The island’s erosion is the result of long-standing industrial extractive processes, the largely unregulated

operation of which can be traced to the very myths of free land and unlimited resources that predicated Removal. The grant provides costs and space for resettlement, but the communities on the island remain suspicious about those promises and potential tensions with new neighbors. Tellingly, Chief Naquin has asked for a live buffalo to graze the property: a potent emblem of what has been lost in the United States' westward push, and a reminder of cultural endurance.

Certainly a climate change relocation grant and Indian Removal are widely divergent in their aims and methods; still, in the face of the potential for further such resettlements, a robust critique of Removal ought to accompany any large scale relocation in the U.S., especially of Native people. Any such critique will work to understand the cultural motivations behind Removal as well as the legislative history of the Act itself. In this way, pop-culture resistance to the twinned conventional narratives of free land and Native disappearance, such as that exemplified in *Dead Man*, begins to touch the contemporary political landscape in important and constructive ways. What's more, in the face of ongoing climate change, the lessons of Indian Removal may have impacts beyond Native communities. As Gary Farmer said in a 1996 interview about *Dead Man*, "People feel sorry for us, but white guilt is the last thing we need... I now realize foreshadowed a situation that's come to afflict all cultures. What's happening now is you're all becoming Indians, and are all experiencing things we've lived with for 200 years. The oppression we've known is visible everywhere now, as we witness the decline of white domination" (McKenna).

The essay needs to deal with a significant potential contradiction in its conception of identity, a kind of have—your—cake—and—eat—It—too problem. On the one hand, you are arguing for a flexible notion of Native identity and within that context you have plenty of references to the transformation of Blake into a Native identity but at the same time you want to argue that his “removal” at the end of the film reverses the traditional force of Removal so that it is whites not Indians who are being removed. Axtell’s essay, which I cite in a margin note, informs us that Native identity traditionally was based on cultural not biological relationships—indeed, *U.S. v. Rogers* testifies to this (here we have the Court trying to biologize the term Indian, as I have written) as do the captivity narratives of Mary Rowlandson and particularly Mary Jemison and others. So what makes Blake’s transformation any different than that of Rogers or Jemison (Rowlandson is in a kind of liminal state when he is ransomed)? Thus, I think one can make a strong argument that *Dead Man* is not a narrative about the reversal of Removal but a Removal narrative, in which, however, Removal is never final because the Makah, in this case and this case is representative, remain. Look particularly at the Farmer quote with which you end your chapter and my margin-note reference to the Zapatista definition of Indigenous. That is, the term at present has a strong political valence that overrides both genealogy and biology, even though these are embedded in federal Indian and now tribal law but not without very negative effects, as you point out as well. So what you need to do here is rigorously follow the logic of your own arguments wherever they lead you; and here they seem to lead you to what will be a very controversial conclusion. By the way the title *Dead Man* does not tell us what kind of man dies, so it can be an Indian or a white

man or both. Perhaps the film's title refers to the death of Blake as a white man and his rebirth as an Indian (a killer of white men). Perhaps it refers to Nobody's death. Perhaps it refers to both etc.

## REFERENCES

- Acts of the General Assembly of the State of Georgia, Passed in Milledgeville at an Annual Session in November and December, 1828*. Milledgeville: Camak & Ragland, Printers, 1829. Print.
- Ahmadi, Amir, and Alison Ross. "Jim Jarmusch's Dead Man." *Angelaki: Journal Of The Theoretical Humanities* 17.4 (2012): 179-192. *Academic Search Premier*. Web. 7 May 2016.
- Baker, Ralph Martin, and Paul G. Pierpaoli, Jr. "Trail of Tears." *Modern Genocide: The Definitive Resource and Document Collection*. Ed. Paul R. Bartrop and Steven Leonard Jacobs. Vol. 4: Rwandan Genocide, Other Atrocities, and International Law. Santa Barbara, CA: ABC-CLIO, 2015. 2025-2027. *Gale Virtual Reference Library*. Web. 19 Apr. 2016.
- Balch, Andrew. *Alfred Balch to Andrew Jackson, January 8, 1830, from Correspondence of Andrew Jackson*. Edited by John Spencer Bassett. (n.d.): n. pag. *Loc.gov*. Library of Congress. Web. 16 Apr. 2016.
- Baltake, Joe. "Trip Leads to Doom in 'Dead Man'" *The Sacramento Bee* 14 June 1996, Metro Final Edition ed., Ticket sec.: TK22. *NewsBank*. Web. 29 Apr. 2016.
- Barker, Joanne. *Native Acts: Law, Recognition, and Cultural Authenticity*. Durham: Duke UP, 2011. Print.
- Davenport, Coral, and Campbell Robertson. "Resettling the First American 'Climate Refugees'." *The New York Times*. The New York Times, 02 May 2016. Web. 10 May 2016.
- Dead Man*. Dir. Jim Jarmusch. Perf. Johnny Depp and Gary Farmer. Miramax Films, 1995. DVD.
- Ebert, Roger. "Dead Man Movie Review & Film Summary (1996). Roger Ebert." *Rogerebert.com*. Ebert Digital LLC, n.d. Web. 10 Apr. 2016.
- Freylinghuysen, Theodore. "Full Text of "Speech of Mr. Frelinghuysen, of New Jersey, Delivered in the Senate of the United States, April 6, 1830, on the Bill for an Exchange of Lands with the Indians Residing in Any of the States or Territories, and for Their Removal West of the Mississippi"" *Full Text of "Speech of Mr. Frelinghuysen, of New Jersey, Delivered in the Senate of the United States, April 6, 1830, on the Bill for an Exchange of Lands with the*

*Indians Residing in Any of the States or Territories, and for Their Removal West of the Mississippi*" Archive.org, n.d. Web. 17 Apr. 2016.

Frickey, Philip P. "Adjudication and Its Discontents: Coherence and Conciliation in Federal Indian Law." *Harvard Law Review* 110.8 (1997): 1754. Print.

Hall, Mary Katherine. "Now You Are a Killer of White Men: Jim Jarmusch's Dead Man and Traditions of Revisionism in the Western." *Journal of Film and Video* Winter 52.4 (2001): 3-14. JSTOR. Web. 16 Apr. 2016.

Hatse, Inge, and Patrick De. Ceuster. *Cosmovisión Y Espiritualidad En La Agricultura Q'eqchi': Un Aporte Para La Revaloración Y El Fortalecimiento De La Agricultura Tradicional Q'eqchi'* Cobán, Guatemala: Ak' Kutan, Centro Bartolomé De Las Casas, 2001. Print.

Jackson, Andrew. "First Annual Message to Congress." *Andrew Jackson: First Annual Message*. The American Presidency Project, n.d. Web. 01 May 2016.

Jones, Kent. "Dead Man." *Cineaste* Spring 1996: 45+. *Academic OneFile*. Web. 17 May 2016

Marshall, Bob, Brian Jacobs, and Al Shaw. "Losing Ground: Southeast Louisiana Is Disappearing, Quickly." *ProPublica*. Pro Publica Inc., 28 Aug. 2014. Web. 1 May 2016.

McKenna, Kristine. "Leader of the Path : Gary Farmer's 'Dead Man' Role as a Guardian Angel Searching for His Own Roots Is Earning Praise. He Credits His Own Conflict as a Native American." *Los Angeles Times*. Los Angeles Times, 11 May 1996. Web. 02 May 2016.

Nieland, Justus. "Graphic Violence: Native Americans and the Western Archive in Dead Man." *CR: The New Centennial Review* 1.2 (2001): 171-200. *Project MUSE*. Web. 17 May. 2016.

Pearce, Roy Harvey., and Roy Harvey. Pearce. *Savagism and Civilization: A Study of the Indian and the American Mind*. Berkeley: U of California, 1988. Print.

Porcari, George. "Nobody's Vision: Jim Jarmusch's Dead Man." *Cineaction*(2012): 25-27. *International Index to Performing Arts*. Web. 1 May 2016

Rosenbaum, Jonathan. *Dead Man*. London: British Film Institute, 2000. Print.

Siebens, Julie, and Tiffany Julian. "Native North American Languages Spoken at Home in the United States and Puerto Rico: 2006-2010." *Handbook of Heritage, Community, and Native American Languages in the United*



*States* (2014): n. pag. *American Community Survey Briefs*. United States Census Bureau, Dec. 2011. Web. 1 May 2016.

Thomas Johnson and Graham's Lessee v. William M'Intosh. United States Supreme Court. 28 Feb. 1823. Print.

United States. Commission to the Five Civilized Tribes.. *The Final Rolls of Citizens and Freedmen of the Five Civilized Tribes in Indian Territory*. Baltimore, Md.: Reprinted by Genealogical Pub. Co., 2003.

United States. Cong. House. *Indian Removal Act*. 21st Cong., 1st sess. H. Bill. Ch. 149. 410-411. 1830. *Library of Congress. A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774-1875*. Web. 12 Apr. 2016.

United States. Cong. Senate. *Appendix to Gales and Seaton's Register of Debates*. By Hugh White. 21st Cong., 1st sess. S. Rept. 91-93. 1830. Print.

Vizenor, Gerald Robert. *Manifest Manners: Postindian Warriors of Survivance*. Hanover: Wesleyan UP, 1994. Print.

## CHAPTER 3

### Alter(native) Repatriations: NAGPRA and Anna Lee Walters' Ghost Singer

Raid archeologists' camps  
and steal shovels  
to rebury the dead  
- Qwo-Li Driskill, from *Walking with Ghosts*

NAGPRA, or the Native American Graves Protection and Repatriation Act, was signed into law on November 16, 1990. The act requires the repatriation of Native cultural items to lineal descendants and culturally affiliated tribal members. NAGPRA facilitates the repatriation of human remains and objects of cultural patrimony in the case of items/remains that were excavated after November 16, 1990 on federal or tribal land as well as those that are held by federal museums and agencies. (U.S.C. 25 §3002) In 2010, The United States Government Accountability Office published a report entitled “Native American Graves Protection and Repatriation Act: After Almost 20 Years, Key Federal Agencies Still Have Not Fully Complied with the Act.”

<sup>24</sup> The report found that “Through the fiscal year 2009, 55 percent of the human

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<sup>24</sup> In their findings, the report stated the following: Almost 20 years after NAGPRA, key federal agencies still have not fully complied with the act for their historical collections acquired on or before NAGPRA's enactment. GAO examined NAGPRA implementation in detail for eight key federal agencies with significant historical collections: Interior's Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Bureau of Reclamation (BOR), U.S. Fish and Wildlife Service (FWS) and NPS; Agriculture's U.S. Forest Service; the U.S. Army Corps of Engineers (Corps); and the Tennessee Valley Authority (TVA). First, all of the agencies acknowledge that they still have additional work to do to fully comply with the act's requirements to identify all of their NAGPRA items, establish cultural affiliations when possible, and create summaries and inventories of the items. Overall, the Corps, the Forest Service, and NPS did the most work to identify their NAGPRA items. BLM, BOR, and FWS

remains and 68 percent of the associated funerary objects that have been published in notices of inventory completion had been repatriated” (GAO). It also reported a number of roadblocks to repatriation, including problems with documentation, inventory, and reporting:

Agencies are required to permanently document their repatriations, but they are not required to compile and report that information to anyone. Only three agencies—the Corps, the Forest Service, and NPS—centrally track their repatriations. These three agencies, however, along with the other federal agencies that have published notices, generally do not report any of their data on repatriations to National NAGPRA or to Congress. As a result, policymakers, Indian tribes, and Native Hawaiian organizations do not have access to readily available information about culturally affiliated NAGPRA items that have not been repatriated. According to officials, the remaining items have not been repatriated for a variety of reasons, such as a lack of repatriation requests and financial constraints. (GAO)

Having described these issues of access, the report goes on to reveal problems with the repatriation of culturally unaffiliated items, many of which tribes claim could be

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did some work, and BIA and TVA have done the least amount of work. Second, some of the eight agencies, along with some other federal agencies, have not fully complied with NAGPRA’s requirement to publish notices of inventory completion for all of their culturally affiliated human remains and associated funerary objects in the Federal Register. Until agencies (1) identify all of the possible NAGPRA items in their historical collections, (2) establish cultural affiliations to the extent possible, and (3) publish the required notices, they cannot repatriate their Native American human remains and objects.

affiliated if NAGPRA either required a more rigorous inventory process *or* allowed “nontraditional” forms of evidence, such as oral testimony, into the inventory process. In short, the report raised a number of concerns about NAGPRA, both in its implementation and its enforceability.

The same year, amid the deep-seated concerns raised by the government accountability office, the journal *Museum Anthropology* published a special issue devoted to understanding NAGPRA twenty years after its enactment. In a recent article in *Studies in American Indian Literatures*, Karen Poremski writes that the issue represents “a kind of stocktaking in the field of anthropology and archaeology and specifically museum anthropology—a field that many proclaimed would be decimated or destroyed by NAGPRA's enactment” (Poremski 1). The journal issue’s wide-ranging appraisals of the act demonstrate its deep and far-reaching effects in the field: as Poremski reports, several of the articles entertain the idea that museum objects might be considered as living beings, “a sea change from twenty years ago, when such beliefs were dismissed as superstitious and unscientific” (Poremski 1).

Even an account as brief as this one of NAGPRA’s twentieth year demonstrates the ambivalence of responses to the act, as well as its unsettled place in Native American, anthropological, and US congressional histories. In his award-winning article about NAGPRA for the National Native American Law Students Association, Matthew Birkhold writes that “the goal of repatriation legislation... was to ‘strike a balance between the interest in scientific examination of skeletal remains and the recognition that Native Americans, like people from every culture around the world, have a religious and spiritual reverence for the remains of their ancestors.’”

(2050) Yet as Poremski has noticed, the Act precipitated an uproar in the scientific community, with many anthropologists declaring the effective death of their field of study.<sup>25</sup> Museum anthropology, however, (as the numbers in the GAO report elucidate) is alive and well, with many “specimens” remaining in archival inventories. NAGPRA, while having accomplished repatriation in enough instances to constitute a major victory for tribes<sup>26</sup>, has had a circumscribed effect on museum collection. In this way NAGPRA continues to enact what Birkhold terms a “balancing act.” An examination of the Act’s origins, however, will reveal how that balancing act betrays

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<sup>25</sup> Anthropological science’s critique of NAGPRA was vocal and public, and eventually reached its culmination in the Kennewick Man case, discussed later in this chapter. By way of example: a 2000 PBS Nova documentary entitled “Mystery of the First Americans,” highlighted anthropologists’ concerns about the Kennewick Man. After the narrator claims that the skeleton was “one of the most important anthropological finds of the century,” one of the scientists who brought suit is interviewed. He sounds beleaguered, claiming that the scientific coalition had no desire to bring the case to federal court. “The government was moving forward with repatriation,” he sighs, “We had no choice.” The narrator drives home the point with a legitimization of the anthropological positioning of the case: “If they did nothing, they risked losing all ancient skeletons, and the mystery of the first Americans might never be solved” (NOVA). Such coverage was typical at the time and is still the dominant public discourse surrounding the skeleton. The Smithsonian’s 2014 article about the remains begins with the headline, “Kennewick Man Finally Freed to Share His Secrets.” The implication is, of course, that the remains had been held captive by Native people who demanded repatriation and burial; once again the western logico-scientific perspective is positioned as neutral, and Native perspectives are marginalized and even vilified.

<sup>26</sup> United States. National Park Service. "National NAGPRA FAQ." National Parks Service. U.S. Department of the Interior, n.d. Web. 15 Jan. 2016. The most current statistics regarding repatriation, updated September 30, 2014, are as follows:  
Human remains: 50,518 individuals  
Associated funerary objects: 1,185,948 (includes many small items, such as beads)  
Unassociated funerary objects: 219,956 (includes many small items, such as beads)  
Sacred objects: 4,914  
Objects of cultural patrimony: 8,118  
Objects that are both sacred and patrimonial: 1,624

tribal interests in NAGPRA by accounting for the historical and/or monetary value of “archeological resources” alongside tribal claims to repatriation.

### *Origins of Repatriation*

In legal terms, “repatriation” refers to the process of returning a person to his or her country of citizenship. For most of its etymological life, the term was used only in reference to living human beings; under Geneva Convention protocols, repatriation is figured as a personal right, rather than the right of a national sovereign entity. (Rule 128) Repatriation, which is always voluntary under the protocols of international law, is probably best known as one of the three “durable solutions” for refugees, along with resettlement and integration. According to the United Nations Human Rights Committee handbook on the topic, the three criteria for repatriation are (1) repatriation must be voluntary, (2) “UNHCR, governments and private organizations (NGOs) have a joint role to play in voluntary repatriations.”, and (3) Voluntary repatriation should be both facilitated and promoted. (UNHCR 6)

These definitional parameters regarding human repatriation have implicitly framed the debate surrounding the repatriation of Native remains, both limiting and heightening the effectiveness of arguments for repatriation as understood in NAGPRA. Likewise, these concerns will frame the discussion in this chapter of repatriation, rights, and nationhood. The framework of human rights is ill at ease in the context of federal Indian law, where most legislation has aimed at tribes rather than individuals. This is a challenge made even more difficult in the case of human remains, for which it is impossible to legally establish whether repatriation would be considered voluntary. What is more, the very framework of rights is one that is

imbricated in the ideological violences of capitalism and neoliberalism, making NAGPRA simultaneously a victory and a capitulation. As David Kennedy writes:

Human rights encourages people to seek emancipation in the vocabularies of reason rather than faith, in public rather than private life, in law rather than politics, in politics rather than economics. The human rights vocabulary helps draw the lines between these spheres. In each case it underestimates what it takes as the natural base and overestimates our ability to instrumentalize what it takes as the artificial domain of emancipation. Moreover, human rights is too quick to conclude that emancipation *means* progress from the natural passions of politics into the civilized reason of law. (17)

These questions form the heart of this chapter's investigation, and illuminate Anna Lee Walters' ambivalent critique of repatriation in her novel *Ghost Singer*.

The repatriation movement began in 1971, when one woman – Maria D. Pearson (*Hai-Mecha Eunka* or “Running Moccasins,” of the Yankton Dakota) successfully challenged the treatment of Native human remains after learning from her husband that archeologists had removed the skeletons of a Native woman and child from a roadway construction site, where they were accidentally disturbed. As an activist, Pearson has had such an effect on the legal landscape of repatriation that she has been called “the Rosa Parks of NAGPRA” (Gradwohl, Thompson, and Perry). Below, I recount Maria's story at length, as a means to understand not only the origins of NAGPRA and its place in federal law, but also the interstices of storytelling and lawmaking, a tradition that Anna Lee Walters' takes up and extends in her novel.

Pearson's own telling of the events that led her to become a catalyst for repatriation legislation is humble and moving. Into the privately life-changing but publically mundane events of moving to Iowa with a new husband, she weaves the Dakota stories taught to her by her grandmother. Relating the events of the day she learned about the disinterment, she writes:

One day I was at home cooking dinner for my children and my husband. John came home from work and he said, "you know, honey, you are going to be upset when I tell you what happened at work today. Remember, about two weeks ago I told you that we located a cemetery in the right-of-way of an interstate highway near Glenwood and we were going to have to get the state archaeologist to check it out? Well, today that state archaeologist came in and located the graves for us in that historic cemetery...And they took out the remains of twenty-six white people, put them in new caskets, and took them to the local cemetery in Glenwood where they reburied them. They also found the skeletons of an Indian girl and her baby. They put those bones in a box and took them to the Office of the State Archaeologist in Iowa City for study."

Then I said, "John, that is discrimination! That goes against all our beliefs!"

John answered, "Well, I told you that you were going to be upset. (131)

Pearson marks the exceptional treatment of the Native remains as discrimination not only because the bones of "white people" were given proper reburial, but also because



it “goes against all our beliefs.” Inferred, here, is perhaps a sense that those beliefs are religious or spiritual in nature, pertaining to the rites and rights of the dead. Pearson expresses also an expectation that those beliefs are, and should be, protected. The “our” in her sentence might be interpreted to encompass Native beliefs *in general*, thereby including in its ambit the beliefs of the Native people whose bones were on their way to the state archeologists office. In other words, for Pearson, those people—though no longer living—were the bearers of certain rights. Again, it is worth noting: in the ontology that Pearson is espousing, the dead are rights-bearing and can have those rights violated. I emphasize this point in particular, because it is the fundamental ground of a great deal of repatriation activism, including the imaginative basis of Walters’ novel. It is also the problematic at the heart of NAGPRA: on the one hand, the framework of rights has been a successful means to repatriation and a victory for many Native communities via NAGPRA; on the other, the discourse of rights is part and parcel of capitalist, neoliberal structures that have instantiated the very violences and thefts that NAGPRA seeks to correct. All of this will become clearer as Pearson’s story intersects with the language of NAGPRA legislation.

Pearson writes that she “finished making supper”—again, weaving the heady discourses of human rights into the quotidian details of daily life, emphasizing their inextricability—and then went out to the garden while her husband and children ate. Here she took the first steps toward activism:

I used to pray out there; I always felt closer to the Creator when I was outdoors. And that night, when I went out to pray, I heard the wind coming. I’ve always had a good relationship with the wind ever since I

was a little girl. I heard the wind coming that night and it stopped just short of coming into our property. And in that pause, I knew something was going to happen... That was the first time I had heard my grandmother's voice since she had made her Spirit Journey. She had always told me..."If you ever need me, I will come to you in the wind. Listen for my voice." And that night... grandmother's voice said, "Girl, I told you that you would have to stand up for what you believe in. *You must protect the places where your ancestors lie.*" (133, emphasis added)

In Pearson's telling, (hi)story, belief, and action are inextricably interwoven. Though she describes going out to her garden to "pray," her prayer takes the form of listening to the wind, through which her grandmother speaks to her. The occasion is intensely personal; Pearson writes that her grandmother told her "a lot more...things...that I cannot reveal" (133). Telling an explicitly political story about a sea change in the legal standing of human remains, she chooses to begin with a narrative of familial lineage and presence. Within the space of two paragraphs she has invoked the presence of the living and the dead: she herself, her husband, her children, her grandmother. Listening to her grandmother speak is as natural, as unsurprising, as making dinner for her children. This telling profoundly interrupts a model of understanding human burial sites as cultural and scientific resources. For Pearson, her personal and familial link to the dead is the incentive for public/political action, a relationship that is clarified further in her advice to the Governor of Iowa about how to deal with disinterred American Indian remains:

It works fine if you leave the dead alone. The dead are not without power, don't ever think they are. The dead have rights—the same rights as anyone of us here that make a decision as to where we want to be buried. We make those arrangements. The Indians that lived here a thousand years ago, or two thousand years ago, they did the very same things that we do today. They made those decisions of where they wanted to be—where they wanted to spend their Spirit Journey. And you interrupt that. That interrupts life for us here also. There are repercussions for all of this. I know one thing, governor, Indians are not the ones who created this problem. The white man created this problem, so the white man should accept the responsibility for rectifying this problem at no cost to the Indian nations. (140)

Pearson's advice relies both on familial and national stories, as well as the (for her) mutually contingent frameworks of the Spirit Journey and the rights of the dead. She frames the rights of the dead as extensions of the decisions made while they were living, and further claims that those rights are not only protected by, but *protect* the living. Here Pearson again implicitly refers to "all our beliefs" – the belief that the dead have rights and that they have chosen their burial places in part to continue to perform a protective function for their lineal and cultural descendants. This is a radical notion of rights-holding, suggesting as it does that it is not the rights of living human citizens that are violated, but rather the rights of the dead. In other words, Maria does not claim (as NAGPRA later implicitly will) that it is *her* right to practice religion that

is under attack. She instead claims rights for what are viewed by the scientific community as natural objects, available for study and construed as property.

However, Pearson does not interrupt the discourse of rights in the same way she interrupts the discourse of remains as resources with market value. Why not? The question is worth considering. In making an appeal to rights, Pearson mobilizes a western discourse to advocate for Indigenous agency and sovereignty. She asserts the individuality of the ancestors and the primacy of their bodily integrity as the basis for the application of their rights. To be sure, this is a radical shift in the way rights discourse is often understood (it infers, among other things, the ability to know what dead ancestors want); however, it participates fully, if implicitly, in the discourses of individuality and citizenship concomitant to rights rather than, say, asserting an alternate, Indigenous frame for understanding the necessity of repatriation. Perhaps Pearson, aware of her audience so to speak, chose this frame as a way of making Indigenous concerns legible to non-Indigenous governing bodies and legal institutions; perhaps she assimilated this Western vocabulary without any specific thought to its broader implications. In any case, the result is an appeal which both inhabits and critiques western legal paradigms for understanding remains.

That tension is largely preserved in the NAGPRA legislation itself, making a case for the argument that legibility was important to Pearson, and was in fact critical in helping the legislation pass. As I've noted above, in NAGPRA the discourse shifts from the rights of the dead to the right of religious freedom (increasing legibility in western law through its citation of the U.S. Constitution), making it a less radical intervention than Pearson suggests. However, it is important to note that however

imbricated in Western legal logic, NAGPRA represents one of the most affirmative pieces of legislation for Native people in the entire body of federal Indian law. In this way it represents a possibility; an example wherein, in however limited a fashion, the language of western law might be manipulated to aid rather than harm Native people.

*Ghost Singer* gestures toward this possibility, while also establishing an Indigenous epistemological justification for repatriation that interacts with and supplements the language of rights summoned by Pearson and by NAGPRA itself. Thus understanding the origins of the repatriation movement, along with a reading of NAGPRA itself, are crucial for discussing the intervention of Walters' novel, and particularly of the spectral Native characters that people it. The novel inhabits the ambivalence instantiated by Pearson's model of ancestors both as persons (in opposition to the characterization of remains as resources) and as rights-holding entities. The novel, in fact, exposes the benefits and limitations of that kind of analysis by inhabiting it, both performing and critiquing the imaginative limits of NAGPRA.

In 1988, two years before NAGPRA was officially signed into law, Pawnee/Otoe-Missouria writer Anna Lee Walters published her only novel, *Ghost Singer*, a mystery set in the Smithsonian archives that launched a scathing critique of the museological acquisition and storage practices that precipitated the federal law. In the novel, white museum representatives who are involved with the curation or archiving of Native remains are haunted by the specters of Native people, and several, when they cannot or refuse to understand the demands of their ghostly persecutors, are eventually killed. At the same time, the novel itself outlines its own demands for repatriation, which, as we shall see, both inhabit and enact a prescient critique of

NAGPRA's limited scope. This section will begin with a discussion on *Ghost Singer's* sophisticated examination of the conditions of academic/scientific imperialism that predicated the act, and go on to discuss the three most trenchant differences in the way Walters and NAGPRA approach repatriation. I will argue that Walters' alternatives arise from Indigenous philosophies and are therefore perhaps more appropriate for repatriation efforts. Particularly, Walters' repatriation schema is reparative in two ways: her assessment of standing, and her understanding of ancient remains as both natural objects and "spirit people."

Before addressing these analyses, however, it is necessary to briefly discuss *Ghost Singer's* place in this dissertation. The novel has never been written about as a Western, and it is in fact probably more suitably understood as gothic fiction. However, I am reading the novel as a Western for several reasons. First, it does in fact quote the genre in a number of ways, large and small. Many of the ghosts that haunt Walters' fictional Smithsonian Museum are described in 19<sup>th</sup> century Native and Western dress, a choice that self-consciously grounds the reader in the era of the United States' most frenzied expansionism. "Cowboys and Indians" becomes a leit-motif of the novel, with memories of the game repeated and reorganized again and again by two of the novel's central white characters.

More importantly, however, is the status of the museum as an archive of the destruction caused by western expansion. Walters' museum's archives are filled with collections that represent the museum as a literal manifestation of what Gerald Vizenor calls the "archive of dominance" (Vizenor xii). Along with pot sherds, "baskets and dolls," the collection around which the novel centers is filled with

“necklaces...made of bear claws and...elk’s teeth” and a “necklace of twenty human fingers, the nails on the fingers blue-tinged” (Walters 42). Other drawers contain “seven human skulls in a circular arrangement,” “small circular shields of hide,” “a full scalp, with the ears attached,” and “a cloth sack that held the bones and skull of an infant” (Walters 43). Walters’ archive is not neutral, but instead a record of the violence of conquest; a history valorized by the Western genre and the characters’ childhood game of Cowboys and Indians.

Perhaps, then, the novel is best understood as a kind of anti-Western. This interpretation is borne out as well by the novel’s movement through space. Beginning in 1830 at Beautiful Mountain, in Navajo Country, with a slave raid against the Navajo, the novel’s action moves eastward to Washington, D.C. and its present day Smithsonian archives. In other words, the novel tracks westward expansion not as a triumphant march westward or even as a chronological westward movement of a frontier, but rather as the consolidation of federal power and the memorializing of that power in eastern institutions. For this reason the novel marks a remarkable alternative to the narrative of the Western by quoting the very conventions that make the genre’s narratives so powerful in the western imagination.

This focus on the consolidation of federal power organizes the novel’s responses to institutional depredations against Native people. In 2005, Rebecca Tillett wrote an article for *Studies in American Indian Literatures* entitled “Resting in Peace, not Pieces: The Concerns of the Living Dead in Anna Lee Walters’s *Ghost Singer*,” in

which she argues that the novel prefigures NAGPRA (and NMAIA<sup>27</sup>) by engaging and responding to the ongoing imperialism inherent to anthropological collections and “scientific/academic attitudes that dismiss, condescend to, and insult Native peoples” (91). For Tillett, the “monstrous” in the novel is located within academic discourse and praxis— a discourse that was built, as Eric Cheyfitz points out, on a “charnel house” of American Indian remains (Cheyfitz 59) It is this discourse and its practitioners, in this case embodied by museum curators and archivists, who are both haunted by the ghost singer and perceive him as a threat and a monster. That is, the curators perceive the ghost singer as a kind of perversion of the ‘natural order’ rather than arising from it, revealing their commitments to exceptionalism and their acceptance of a historical narrative of conquest.

Tillett takes up this critique in the novel, emphasizing the indications of imperialism in academic communities, while linking NAGPRA to the concerns of the novel through the Act’s effects on academic and scientific research. She writes:

Perhaps predictably, the prevalent reaction of the academic community to NAGPRA was—and continues to be—one of outrage at what is

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<sup>27</sup> The National Museum of the American Indian Act, which deals specifically with Native remains housed in the Smithsonian. In this chapter, I choose to focus more on NAGPRA than on NMAIA in general. Although it might seem counterintuitive since Walters’ novel features a haunting of the Smithsonian, the novel also specifies in the copyright that “Although the Smithsonian Institution is a real place with collections of Native American artifacts, references to it in this book, including its collections and employees, are fictional. Any resemblance of characters to actual persons, living or dead, is purely coincidental” (Walters np). I take from this disavowal of the parity of the fictional and real as permission to read Walters’ Smithsonian as a generalized figure for museum collections and practices. The Smithsonian, however, has special resonance for Walters as an icon of United States cultural life, so that a tension between fictional and nonfictional spaces is sustained throughout the novel.



perceived to be the loss of ‘non-renewable archaeological resources.’ It is a reaction that itself exposes the continued dominance of dismissive and disrespectful scientific and academic attitudes. In particular, the reaction exposes the continued imposition of imperial categories, whereby Native absence is perpetuated by the divorcing of contemporary tribal peoples from ‘authentic’ (i.e. non-renewable) tribal past. Thus, in a manner akin to the remains residing in Walters’s museum of Natural History, Native peoples continue to be equated with the natural world, with “resources.” (Tillett 92)

Tillett catches the force of the connection, implicit in the kind of museological practice Walters describes, between authenticity, historicity, and non-reproducibility. The resulting matrix of resistances to repatriation relies heavily on ghosting Native peoples and communities by refusing the authenticity of contemporary, dynamic, and adaptable Native life while valuing “priceless” Native “artifacts.” I hope to offer in this chapter a reading of *Ghost Singer* that both acknowledges its prescience in regards to NAGPRA as well as illuminating the uneasy relationship between western legal and Native epistemologies that the novel navigates and, I will argue, to some extent remediates. NAGPRA, as we will see, has both avenged and disappointed Walters’ ghosts, as well as working within nationalist discourses to continue to ghost Native people.

Walters’ ghosts complicate significantly the notion that literary American Indian hauntings must be located in the Anglo cultural psyche, though inhabit that space, too. This view is embodied by the Euro-American characters in the novel, who

are indeed the victims of haunting. The Anglo characters are all of a piece: well-educated white Americans devoted to rationalism and academic pursuit. These bedrock traits lead them all to the same conclusions: their denial of the existence of ghosts, their condescension to Native epistemologies and their belief that Native people are relics of the past, and finally their inability to connect the academic projects in which they engage with the hauntings they experience.

In this way, Walters' novel acts as a critique of museological praxis and academic knowledge production, particularly the disciplinary practices of history and anthropology practiced in their most traditional sense. The museum's ghosts are the specters of these hegemonic producers of knowledge, and their Anglo practitioners are the targets. However, it must be noted that the novel does not confine its critique to academic practice, but instead targets the persistent coloniality that informs the whole Anglo-American conception of time and history, in which Native people may be figured as primitive or as predecessors of current "civilization." Walters roots these cultural ideologies in the practice of anthropology (and that discipline's enshrinement in National spaces like the Museum of Natural History) but her analysis is more wide-sweeping. *Ghost Singer* is the culmination of years of thought and activism surrounding repatriation, and it imagines a comprehensive set of decolonial imperatives. Thus, the novel's ghostly Native characters—in their demands for repatriation that both quote the western legal focus on the individual and yet insist on Native understandings of the dead and their role in the community—expose (two years before the Act was introduced) the imaginative limits of NAGPRA.

*The Practical and Imaginative Limits of NAGPRA*

NAGPRA was enacted by Congress on November 16, 1990 with the purpose of returning to affiliated tribes Native American remains and cultural objects held at that time in museums. It aimed to solve two problems: one, the vast number of unaccounted for Native remains and cultural objects languishing uninventoried in museum archives; and two, the ongoing “discovery” and subsequent looting of burial sites excavated on federal land at the time of NAGPRA’s enactment. The Act outlines four discrete steps in the process of repatriation: determining ownership of the items in question, inventorying those items already held in museums, notifying appropriate tribal authorities of their existence, and repatriating the objects to tribes. In addition, the Act outlines standards for repatriation and establishes a committee to review the identification and inventory process for cultural objects and remains. Under the Act, objects held in museums must be inventoried and any lineal descendants or culturally affiliated tribes must be notified. If those notificants claim the remains, they must be “expeditiously returned.”

In its intent, the Act is clearly designed to “protect Native American’s [sic] human rights and religious practices” (Crowther 269). It seeks to do so by indicating cases in which objects have not been repatriated and then implementing a chain of custody through which objects in those instances might be returned to tribes or individuals from which they were taken. And in many, many cases the legislation has been successful in returning Native remains to Native communities, making it a major victory for tribes in the context of a body of law that has routinely dispossessed Native people.

However, scholars have been pointing out the practical limits of NAGPRA nearly since its introduction. On one end of the debate, some scholars believe that NAGPRA overreaches in these instances: Wendy Crowther, writing for the *Journal of Land, Resources, and Environmental Law* points out that “application of NAGPRA to ancient human remains, which lack a cultural affiliation to any existing Native American tribe, may go too far in that it can prohibit the study of ancient remains and, as a result, severely limit scientific discovery that could benefit all people” (269). On the other hand are views like those Roger Buffalohead expresses in an article for the *Arizona State Law Journal*: “In the U.S., the powerful wanted land and resources. If you want to know what is behind any American Indian policy in this country, all you have to do is ask and answer the following question: what did white people want that Indian people had?” and in the same article: “[Repatriation] was a situation where, again, the people who have the power—the dominant society—determine what is going to be legal or illegal in a given situation” (643).

In other words, NAGPRA is limited by its use of the language and epistemological circumscriptions of Western legal discourses of power. Despite its antecedents in Native activism and its intent to repatriate wrongfully acquired and stored remains, NAGPRA itself represents a kind of compromise. The Act has two essential objectives: to “control the removal of Native American remains and cultural items from federal or tribal lands after November 16, 1990” and “to address the disposition of Native remains and cultural objects currently held or controlled by federal agencies and museums” (Yasaitis 267). However, the Act also acknowledges

“archeological, historical, or commercial value of the item[s]” (3007b). D.S. Pensley demonstrates the force of many of the strongest critiques of the Act:

The text of the Act in no way implicates the genocide of Natives since 1492 and the scavenge of their dead that has brought it into being. In fact, the first definition of the Act, for the term burial site,’ reads: ‘any natural or prepared physical location, whether originally or from below, on or above the surface of the earth, into which as part of the death rite or ceremony of a culture, individual human remains are deposited.’ At first glance inclusive, the definition avoids any intimation of mass graves and hangings or entire Indian bands killed and left unburied (the haste of retreat precluding ritual) at a battlefield or massacre site. (qtd. in Cheyfitz 59)

This could include the massacre at Wounded Knee or the mass grave of the Dakota 38<sup>28</sup>, by way of examples. By refusing to acknowledge these sites as potential “burial sites,” the Act effectively renounces the history of violence associated with conquest.

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<sup>28</sup> On December 26, 1862 in Mankato, MN, thirty-eight Dakota men were hanged in a mass execution. From the informational webpage about the hanging maintained by the State of Minnesota’s Historical Society: “As the men took their assigned places on the scaffold, they sang a Dakota song as white muslin coverings were pulled over their faces. Drumbeats signalled the start of the execution. The men grasped each others’ hands. With a single blow from an ax, the rope that held the platform was cut. Capt. William Duley, who had lost several members of his family in the attack on the Lake Shetek settlement, cut the rope. After dangling from the scaffold for a half hour, the men’s bodies were cut down and hauled to a shallow mass grave on a sandbar between Mankato’s main street and the Minnesota River. Before morning, most of the bodies had been dug up and taken by physicians for use as medical cadavers.” “The Trials & Hanging.” *The US-Dakota War of 1862*. Minnesota Historical Society, n.d. Web. 18 Jan. 2016. <http://usdakotawar.org/history/aftermath/trials-hanging#sthash.Jd4xaPgI.dpuf>

Thus we begin with an act that repudiates, or at least disregards, the very history of violence it seeks to address. One challenge of NAGPRA is recognizing a distinct Native life and history that predates the U.S. and its laws, while integrating that cultural history into a “legal structure that is based on different evidentiary standards and procedural requirements” (Yasaitis 285). The encounter between the two produces a field or ground upon which NAGPRA might have more potential than perhaps any other area of federal law to incorporate Native views into the U.S. legal system. After all, the express purpose of the Act is redress to Native individuals and cultural entities for the theft of culture and of bodies. However, thus far that potential has been largely squandered through NAGPRA’s inherent epistemological limitations (that is, its reliance on western legal logic to adjudicate the relationships of non-western peoples to their ancestors) and courts’ narrow readings of the Act in the course of subsequent precedent-setting legislation.

There are a number of ways in which the act itself fails to account for pre-colonial *and* contemporary Native life; several of these are challenged and reimagined in Walters’ novel. As mentioned previously, the two overarching issues this section will take up are the problems of archeological value and standing embedded in the Act. To address the Act’s assertion of the “value” of remains and items of cultural patrimony, we must look to (1) its conflation of patrimony and ownership, and (2) its reliance on the paradigm of “discovery” to describe and understand the exhumation of Native remains. In order to determine its requirements for standing, we must examine (3) its definition of cultural affiliation. In order to do so, we will return to an analysis of *Ghost Singer* to examine the ways it revises those problems and offers alternatives.

The pattern of haunted museum curators begins with Jean Turley, the sister of one of the book's main Anglo characters. Turley is a researcher at the National Archives working on projects closely tied to the Museum of Natural History who, at the time of the novel's opening, has been haunted by the ghosts of Indian peoples.

Turley's description of the haunting to her brother, historian David Drake, is a model for the hauntings of Anglo characters to come. She describes the ghosts as dressed in 19<sup>th</sup> century American Indian and western clothing. The scene models both the collapse and the reconstruction of western rationalist discourse, as well as how "appalling and instinctively disturbing" the unexplained or unexplainable is in that model (2). As Turley attempts to relate the narrative of her haunting, she is repeatedly interrupted. Drake attempts to engage her in conversation about 'having a decent meal'; she pauses to note that her ex-husband Dennis worried that she was "going crazy" (7). When Drake interrupts her story for a second time and gingerly discounts it, she abruptly leaves the table and does not return.

Tellingly, although Turley attempts to "realize what [she] was seeing," her reaction to the hauntings persists in the realm of academic inquiry: "I didn't really mind seeing these things. In fact, you might say that I've learned from these experiences" (7). These early hauntings, in which the ghosts take the appearance of "distinguished" 19<sup>th</sup> century Indian men," fail to substantively disrupt her academic gaze, and in fact become opportunities for more learning. (6) It is significant that Turley recounts the events while she "ravenously ate" – a metaphor for her academic research, which attempts to consume and contain—to learn from—even the most disconcerting phenomena. In this model, the 19<sup>th</sup> century Indian men are appetizing –

they confirm that Native people are primarily historical, a narrative that can be easily consumed.<sup>29</sup> When she describes the ghost who finally frightened her, though, she “became sullen.” This ghost – the ghost singer – defies her consumptive model of learning in two ways: first, he cannot be placed in time, and second, he is angry.

These two qualities are of particular importance in disrupting Jean’s narrative, which has sublimated childhood stories of conquest (“Remember when we were kids, Davie? Playing cowboys and Indians all the time? Davie always wanted me to be the cowboy” [3]) into legitimated archival and academic practice. However, the novel’s critique reaches beyond the academy as well. For Walters, the museum and its associated academic and archival practices are a mere synecdoche for an entire history of conquest, and the novel’s demands for repatriation reflect that understanding. Those demands rest on an insistence on recognizing the museum’s role in that history; that is, recognizing the museum as the latest sanctioned “collector” of Native objects and remains that were, in fact, stolen from Native people in the course of U.S. imperialism.

The discourses of science and imperialism have been tightly interwoven in the history of European-Indigenous American contact. Yasaitis, quoting Trope and Echo Hawk, notes that “In the 1840s, Dr. Samuel Morton, ‘the father of American physical anthropology,’ attempted to scientifically prove that ‘the American Indian was a racially inferior ‘savage’ who was naturally doomed to extinction.’ His theory of the

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<sup>29</sup> The metaphor of ravenous consumption is also noteworthy for its reversal of the discourse of cannibalism, historically so often leveled at Native people by Europeans, from invaders to historians. For a comprehensive and thrilling account of the reversal of the discourse of cannibalism, see Bethany Schneider. “A Modest Proposal: Laura Ingalls Wilder Ate Zitkala-Ša.” *GLQ: A Journal of Lesbian and Gay Studies* 21.1 (2015): 65-93. Project MUSE. Web. 5 Jan. 2016. <<https://muse.jhu.edu/>>.



‘Vanishing Red Man’ justified the government’s actions towards Native Americans, including relocation and genocide” (Yasaitis 260). This passage clarifies the relationship between anthropology and conquest, a relationship that Walters depicts as inextricable.

In a new essay on the novel, Florian Tatschner reads *Ghost Singer* (alongside Diana Taylor’s *The Archive and the Repertoire*) in order to examine the limitations of transnationalism in American studies, and to propose a more radical transnationalism that recognizes the “transnationalism within” U.S. borders. For Tatschner, Walters’ novel participates in what he sees as a larger emergent Native intellectual intervention in American Studies to challenge the received notions of the transnational. “With the evocation of the idea of internal nations,” he writes, “Native Americans are drawing attention to a dimension of transnationalism often ignored in the dominant discourse...namely a kind of transnationalism produced by colonialism within the nation-state’s borders”(Warrior 123). (Tatschner 3).”<sup>30</sup>

This colonial history is, of course, evident in NAGPRA. Most obviously, the Act’s reliance on the paradigm of “discovery” rehearses the colonial logic of the body of law on which it is built and in which it participates. NAGPRA’s commoditization of Native remains and other “cultural objects” coincides with language that rehearses, microcosmically, the model of European conquest that underwrites the whole of

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<sup>30</sup> Tatschner is careful to point out that the nation, though rooted in western political thought, does not necessarily indicate western political formations in Native thinking and practice: “These tribal nations...do not simply adhere to the Eurocentric concept of the nation-state and the colonial epistemology upon which it is founded. The appropriation of the term ‘nation’ here does not indicate inclusionary complicity with this time of thinking. It rather constitutes a subversive strategy.... (Tatschner 3).

federal Indian law. Most trenchantly, the Act relies on the language of “discovery” as well as the designations of “federal” and “tribal” land to define Native articles found after November 16, 1990—articles which, under the Act, must be repatriated.<sup>31</sup> Under the heading “inadvertent discovery of Native American remains and objects,” the Act reads as follows:

- (1) Any person who knows, or has reason to know, that such person has discovered Native American cultural items on Federal or tribal lands after November 16, 1990, shall notify, in writing, the Secretary of the Department [of the Interior], or head of any other agency or instrumentality of the United States, having primary management authority with respect to Federal lands and the appropriate Indian tribe or Native Hawaiian organization with respect to tribal lands, if known or readily ascertainable, and, in the case of lands that have been selected by an Alaska Native Corporation or group organized pursuant to the Alaska Native Claims Settlement Act of 1971 [42 U.S.C. 1601 et seq.], the appropriate corporation or group. (25 U.S.C. 32 § 3002)

The language in this section, particularly, points up the limited nature of tribal authority under NAGPRA and the extent to which the Act demands tribal cooperation with federal authorities. That is, presumably if a Native person finds a “cultural object” on her home reservation and reports finding that item to the local tribal

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<sup>31</sup> It is important to note that the inclusion of these articles only makes up part of the Act; objects held by federal or federally subsidized institutions are also subject to repatriation.

authorities, those authorities must then report the finding to the Secretary. The language is left open enough not to preclude this kind of interpretation, absurdly weighted toward federal authority though it is. What's more, the section reiterates the primacy of the United States and its agencies in the enactment and enforcement of NAGPRA, raising the specter of the plenary power of Congress to reject any tenet of federal Indian law.

Beyond possible interpretations of the section, though, is the use of the language of discovery to refer to excavated remains and objects. Discovery has a special meaning in federal Indian law, as discussed in Chapter One. In his opinion for *Johnson v. Mc'Intosh*, Marshall writes "The exclusion of all other Europeans necessarily gave to the nation making the discovery the sole right of acquiring the soil from the natives, and establishing settlements upon it. It was a right with which no Europeans could interfere. It was a right which all asserted for themselves, and to the assertion of which, by others, all assented." (U.S. 543 571-72) In his 2005 book about the case *Conquest by Law*, Lindsey Robertson writes that

[e]xclusivity necessarily resulted in the impairment of Indian real property rights. The Indians 'were admitted to be the rightful occupants of the soil, with a legal as well as just claim to retain possession of it, and to use it according to their own discretion; but their rights to complete sovereignty, as independent nations, were necessarily diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was

denied by the original fundamental principle, that discovery gave exclusive title<sup>32</sup> to those who made it (100).

So we see that NAGPRA acts as a reminder of this history in several ways: first, in its very existence as a federal statute that controls recognized tribes subject to it; and secondly, in its repetition of the very language of discovery that legally dispossessed Indigenous people in the United States, within the body of law that performed that dispossession.

Although the section of the Act seems labeled “Inadvertent discovery of Native American remains and objects” (U.S.C. 25 §3002 (d)) more properly refers to “accidental interment” or “accidental excavation” of Native remains, the choice of the word “discovery” hearkens simultaneously back to the “discovery” of the North American continent and forward to the continued “discovery” of Native remains on federal lands: a word that sums up as succinctly as possible the exploitative and extractive history of European colonization of the so-called New World. Added to the Act’s imaginative limitations imposed by capitalist logic are those imposed by conquest. As the above section demonstrates, the two are deeply intertwined in federal Indian law; rarely is one found without the other.

*Ghost Singer* displaces the colonial narrative of the “The Vanishing Red Man” through the fully realized belief systems of her Native characters and the satirization of the novel’s non-Native characters. In one brief scene she distills white ignorance of historical violence and removal; one of the museum archivists, Geoffrey Newsome, is

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<sup>32</sup> Exclusive title, in this case, might be understood to mean the exclusive right of acquisition, which the *Johnson* case avers. That is, it entails the exclusive right to obtain absolute title, clearing Indigenous title.

disturbed by someone entering his office without permission. “This idea was new to him. The thought that someone he did not know very well and whom he disliked intensely could come and enter *his* space and violate his territory, without his approval or knowledge, angered him” (42).

Against the backdrop of this willful ignorance the novel’s hauntings work not to reprise a colonial history of genocide, but to force atonement for it through the reassertion of Indigenous epistemological interventions. Though Tatschner rightly concludes that the apparitions in the novel’s Smithsonian “allude to the disavowed colonial atrocities of the US national project,” these spectral figures – figures of native presence – cannot be contained within that model of the Native ghost any more than they can be contained within the archival spaces of the museum. Instead, the novel’s interventions coalesce around notions of repatriation that rely on the ongoing vitality of the ghosts making the demands, and the objects to be repatriated. That continuity is placed in relationship to contemporary Native people and understood as a proper and ongoing relationship. Combining these discourses, the novel asserts an inclusive vision of kinship that acts as the ground and justification for repatriation, over and against the discourse of rights on which both NAGPRA and Pearson rely.

In the Act, this discourse is refracted through the language of property, which assumes the individual or group ownership of remains rather than, as *Ghost Singer* would have it, a kinship relationship with the remains themselves. NAGPRA’s definition of “cultural patrimony” seems to fundamentally eschew the framework of ownership as applied to cultural objects:

“cultural patrimony” which shall mean an object having ongoing historical, traditional, or cultural importance central to the Native American group of culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether the individual is a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group. (25 U.S.C. §3001 (d))

This category stands as a supplement to the other articles protected by the Act: cultural items (human remains fall under this category), associated funerary objects, and sacred objects. Though the definitional status of such objects is deemed “inalienable” in section 3001, the following section (3002), which hierarchically prioritizes the parties to which repatriation is owed, is titled “Ownership” (25 U.S.C §3002). The text of the section specifically states its purpose as defining “The *ownership* or control of Native American cultural items which are excavated or discovered on Federal or tribal lands” (25 U.S.C. § 3002 (a)).

The contradiction evident in the two sections betrays the colonial logic of property and dispossession that informs federal Indian law. While defining cultural patrimony as inalienable suggests a nod to Native epistemologies “grounded in extended kinship relations that in the beginning and in the end are social not biological” (“What is a Just Society” 292), the remediation proposed by the Act relies on explicitly Western notions of property and ownership. In other words, NAGPRA

refracts Indigenous kinship relationships to cultural items (including human remains!) into the language of the commodity, and in doing so naturalizes the notion that those articles have value in the marketplace.

The subsumption of kinship into property creates the tension that Matthew Birkhold calls NAGPRA's "balancing act," but which might be more rightly understood as NAGPRA's assimilation of Indigenous cultural meanings into Western legal logic. Thus the Act is able to consider the "archeological, historical, or commercial value of the item involved" as well as "the damages suffered, *both economic and noneconomic*, by an aggrieved party, when assessing penalties for noncompliance (25 U.S.C. § 3007 (b)(1)(2)).<sup>33</sup> At least in this way, the imaginative limits of NAGPRA fall squarely within the paradigm of capitalism, which translate "inalienable" Native cultural objects into commodities for the purpose of repatriation.

Rather than an essentially commoditized relationship to remains, *Ghost Singer's* Native characters stress the ongoing personal and cultural relationships between living people and "spirit people." In so doing, the novel offers an alternative to the Act's notion of cultural patrimony not only on grounds of kinship, but specifically on kinship that is not necessarily biological – another western imposition that NAGPRA entails.

The novel marks sharp distinctions between ghosts and spirit people, though its Anglo characters are unable to distinguish between the two. By highlighting that inability, the novel privileges Native epistemology in order to demonstrate and

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<sup>33</sup> It is worth noting that, after *Bonnischen v. U.S.*, aggrieved parties under NAGPRA can be either Native American claimants or museum entities.

deconstruct the narrow channels of racialized academic inquiry. A long scene between Smithsonian researcher Donald Evans and tribal official George Daylight crystallizes the differences between western and Indigenous philosophies that lead, in the novel, to an impasse predicated on incompatible understandings of such fundamental concepts as ownership and vitality, as well as on Evans' blatant racism. Waiting for Daylight's arrival, Evans muses on his own commitment to rationalism, and Daylight's intractable superstition. Even Evans' reflections on his own "impersonal assessments," however, are tainted by his racism and anglocentrism when, in the midst of his self-congratulatory reverie, he thinks of Daylight: "His existence at all—a practicing heathen who endowed each life with a personification of his own mind—in a fast-paced society that hurled itself toward high tech and outer space was wryly amusing to Donald" (122).

In the course of this rant, which Evans perceives as supremely rationalist, classically Christian language intrudes and Daylight transforms into a "heathen" – a word associated in the Christian canon with a litany of offenses historically attributed to Indigenous people, from cannibalism to witchcraft. Though Evans purportedly sees the obsolescence of Daylight's existence within the context of a secular "fast-paced society," in fact his critique, such as it is, is anchored in a centuries-old discourse, instigated by the Carlisle Indian School, of "killing the Indian to save the man."

In stark contrast to Evans' western rationalist discourse that resigns ghosts to the "superstitions" of "heathens," Walters' Native characters differentiate with great nuance between ghosts and spirit people. George Daylight lectures Evans on this point, insisting that "these ain't ghosts" even as he reveals their ontological position as



living dead. Claiming that he “felt the spirit people [in the room], in the drawers, in the cabinets, in the corners of the room,” Daylight’s exegesis of the haunting spirits rests on their purpose, and their place. The spirit people are a felt presence, and that presence emanates from the “cabinets,” “drawers,” and “corners:” all of the places in which artifacts and human remains have been put away and hidden from view. Daylight’s implied understanding of spirit people residing within these objects held by the museum locates his philosophy in opposition to Evans; his model of care is one that responds to the ongoing vitality of the spirit people.

The presence of spirit people is, for the novel’s Native characters, an extension of the presence of the living. The novel’s alter(native) framework for repatriation suggests that exhumation is a violation *of the person whose remains are exhumed*, rather than a violation of the “religious freedom” if its contemporary Native characters. While NAGPRA allows for disinterment without reburial if federal and tribal agencies are notified, in *Ghost Singer*’s formulation it would be a violation of the spirit person’s journey and a disruption of Indigenous practice and belief.

In fact, *Ghost Singer* directly points to the limits of repatriation once federal agencies are involved, and Walters’ Native characters deliberately protect burial sites from those agencies, and evince concern about their being found. The novel’s epilogue is one such sequence, and drives home the imaginative limits about which I have been talking. The one-page epilogue begins with a description of the death of one of the book’s protagonists, Jonnie Navajo. Visiting his grave a year later, Nasbah and Willie, his grandchildren, reflect on his burial site:

“It’s a good thing not too many people know these are here,” Nasbah said.

“They’ve already been looted,” Willie said, “probably several times by now. People are looking for diamonds and jewels.”

There’s no diamonds here,” Nasbah laughed.

The passage might be read metaphorically to suggest that the “diamonds and jewels” being sought out are in fact any Native “artifacts” with market value, a category that would include, speculatively, even human remains. The novel’s final lines bear out this reading:

“Let’s hope not too many people come out here, Willie,” Nasbah said.

“They’re sure to haul everything away, bones and all! It wouldn’t matter whose bones they are.”

At Jonnie Navajo’s grave, a pottery sherd lay beside the old man’s mound. By the time Willie left there, Nasbah’s comments about stolen bones had made him very uneasy. If only he could be sure his grandfather’s grave would be safe there....

By positioning this passage in the epilogue, after a narrative in which Johnnie Navajo was a central force, Walters draws attention to the continuity of human life and spirit life, and demonstrates that disinterring remains would constitute a violation of that continuity. Thus, the novel posits a far more radical vision for the treatment of Native remains than NAGPRA, grounded not in rights discourse but in the Indigenous epistemology she describes. In this way Walters extends even Pearson’s formulation, rejecting the discourse of rights as a necessity for making repatriation possible. This is

important because, for all the ways in which *Ghost Singer* has been called a precursor to NAGPRA, in fact it also rejects this central tenet of the legislation, and posits a vision based in Indigenous cosmology. Thus even as the novel highlights certain aspects of future NAGPRA legislation that mark victories for Native people (the understanding of remains beyond the language of resources, for example), it also presciently critiques the Act's limitations.

Walters' claims, like Maria Pearson's for the "rights" of spirit people to take their Spirit Journeys, are predicated on the continuity of the "lives" of the dead and are thus nearly as far from the canonical motif of the Native ghost as we can get. The canonical Native ghost is what Gerald Vizenor has called an "ascriptive simulation," an understanding of the cultural production of Native people that has nothing to do with Native life and is instead a simulacrum, infinite versions of which accrue to colonial hegemony. (Vizenor 145) Vizenor writes that the "*indian* is an imprinted picture, the pose of a continental fugitive. The simulation of the other is the absence of the native; the *indian* is an imprimatur of a theistic civilization... Cultural pageantry, dioramas, and museum presentations pictured the fugitive *indian* in the archives of dominance" (Vizenor 145, italics in the original). The ascriptive simulation of the Native is precisely what Pearson, and (as we shall see) Walters, mean to contest. Both challenge the bromide "knowledge for knowledge's sake" by suggesting, as Vizenor does, that the archive is not neutral but instead an artifact of dominance, and a repository that will assure the continuation of that dominance if not disrupted.

Just as Vizenor makes a distinction between the "indian" and the Native, with the "indian" marking a performative gesture that remains fundamentally imbricated

with narratives of conquest and dominance, Anna Lee Walters distinguishes between the “ghost” and the “spirit person.” While the ghost, like Vizenor’s indian, is a western construct that is inextricable from a hegemonic narrative (and therefore powerless), the spirit person represents an alternative epistemology that does not repose in the “archives of dominance” and is therefore free to resist epistemological and narrative violence in novel ways.

The difference between ghosts and spirit people is at the heart of Walters’ intervention into the narrative of the Native ghost figured primarily as the “disappearing American,” and is what makes *Ghost Singer* such a resistant text. George Daylight, for example, insists on the aliveness of the spirit people and the objects, further mutually imbricating them in a network of sentience and purposeful action, and indeed attributing to them equal and identical agentive trajectories. He warns Evans that the objects (including but not exclusively human remains) are culturally contiguous and have ongoing cultural life, even if those cultures have “changed.” The belief in the extinction of Indian cultures and the affiliation with Manifest Destiny are the chief obstacles to Evans’ understanding of the objects’ importance, along with a capitalist intellectual model that sees the objects as “things” that can be owned. Evans, in fact, rehearses his version of commodity fetishism to provide support for such a view: “When items such as these are created and become separated from the original maker, well, that separation was a distinct possibility before the item was created... Therefore... these items cannot still be considered Indian possessions, though there’s no doubt that they were created by Indians or came from them” (124)

Daylight counters Evan's assertion of alienability with two insights that he marks specifically as "tribal." He first critiques Evan's relationship of ownership to the items: "The extent of feeling, or cultural belief, of a particular tribal person, or tribal group, creating a religious or sacred item goes beyond *possession* or *ownership* of it. In a sense...such a thing cannot be owned" (124). He extends the idea further to the critique the western conception of ownership in general: "*Ownership* in a tribal context implies several things, and not necessarily possession of an item. To *own* it, one must be able to make use of it, and that implies that one is aware of the purpose for which it was created and has the means, the information, or the knowledge to use it as it was intended" (125). While asserting an Indigenous standard of "ownership" that is relational rather than possessive, Daylight rejects the model of collection out of hand in favor of a stewardship model.

Finally, Daylight proposes that agency resides within objects themselves, saying that "these creations have a characteristics and a nature. As long as these articles exist, these characteristics, this nature, and their power are embodied in that creation" (127). In this way Walters is able to insist on repatriation as it has traditionally been understood—as voluntary—while greatly expanding the criteria by which such a determination might be made. At the same time, she is able to circumvent the languages and logics of rights and property by suggesting a relational, Indigenous model that posits contemporary Indigenous people as interlocutors for and stewards of ancient remains.

The result of the Indigenous philosophical interventions staged by *Ghost Singer* is a radically expanded vision of legal standing. In NAGPRA, one of the main

obstacles to legal standing for tribes or individuals seeking the repatriation of remains is what the Act defines as “cultural affiliation.” NAGPRA defines cultural affiliation this way: “means that there is a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian tribe or Native Hawaiian organization and an identifiable earlier group” (U.S.C. §3001(2)) Though again this definition (like the definitions discussed above for “burial site” and “cultural patrimony”) seems at first quite inclusive—particularly in its incorporation of prehistoric remains—other sections of the Act significantly diminish the scope of cultural affiliation by defining what “reasonably traced” might mean. Considerable reference is made, in particular, to genetic traceability. Lineal descendants are the most highly prioritized group of claimants under the legislation, with cultural affiliation being secondary. Lineal descendants are defined strictly as “individual[s] that [sic] can trace, directly and without interruption, the ancestry of the individual through the traditional kinship system of an Indian tribe, or through the common law system of descent, to a known Indian” (U.S.C. 25 §3052 (6)).<sup>34</sup>

Though the language makes reference to kinship, in practice lineal descendants have been determined genetically because of the Act’s requirement of a “preponderance of evidence.” Thus, one of NAGPRA’s main limitations is the procedural requirement of standing – that is, the capacity of a person or party to bring

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<sup>34</sup> It is also worth noting regarding questions of standing that NAGPRA requires that any objects subject to repatriation be affiliated with a present-day tribe or nation, a requirement that once again doubly asserts federal control over Native sovereignty by requiring recognition, a status which Congress has the power to grant and which many tribes have not received.

suit. If no party is competent to stand in a dispute, the case can be ended or dismissed without consideration of its merits. NAGPRA itself enumerates who qualifies to stand in cases that refer to the Act; that is, lineal descendants or members of recognized tribes claiming cultural affiliation. In addition to the standards stated in the Act, the party must meet the three basic definitional requirements of standing set out in the Case or Controversy Clause of Article III of the U.S. Constitution:

(1) that the plaintiff have suffered an “injury in fact”...;(2) that there be a causal connection between the injury and the conduct complained of...; and (3) that it be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. (367 F.3d 864, 872)

It must also be determined that the party seeking redress falls within the zone of interests eligible for relief under the statute. These multilayered standing requirements produce difficulty for Native people seeking repatriation for a number of reasons, including the difficulty of assessing the genetic and cultural affiliations of very old remains. Though NAGPRA allows evidence of cultural affiliation based on “geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information,” (U.S.C. 32 §3006 (4)) in practice oral and “folkloric” evidence has been heavily discounted as proof of affiliation (an idea to which I will return in my discussion of *Bonnischen v. U.S.*).

Walters launches what might be her strongest alternative to NAGPRA on this issue of standing. Like Pearson, Walters never claims any genetic link between her Native characters and the museum objects with which they affiliate. In fact, the

possibility of verifying such genetic lineage is questioned and challenged in the novel, while oral history occupies a much more reliable evidentiary space. In this way the novel challenges the logic of lineal descent that compromises NAGPRA's most desirable status for legal standing. In one of the novel's only invocations of lineal descent (from a white family), the record, such as it is, proves undependable:

*D.—*

*Get what you can for this Indian stuff. It should be worth something in \$. Try a museum first.*

*The blanket and bonnet were my granddaddy's. He said they belonged to Crazy Horse himself. Claimed he traded two horses for them, from the fellow who originally came by these things. Don't ask me how.*

*I don't know what the red stones are, but they came outta a woman's grave in Nebraska. Those people are extinct. I doubt the stones are worth much, because no one knows what they are.*

*We dug up the jewelry near the Oklahoma/Louisiana line ourselves. We had a lot more of this stuff, but our kids often played with these and broke a lot of them. Had to throw out most of the broken stuff in the trash. I bought the little carvings from a pot-hunter in Arizona years ago.*

*Daddy ran across the ears in New Mexico and won them in a poker game about 1890. They're Indian ears all right. They won't be of much use to anyone, except to someone who may want to hang them on a trophy mantel—a conversation piece for sure.*



*Guess that's about it. I sure could use the \$ if you could sell all this junk. It's been in the attic for years.*

*-John*

This passage documents the byzantine channels of possession through which a museum might acquire ‘artifacts’ such as those in the chest, along with the concomitant loss of personal and cultural knowledge about those items. Each of the items has passed through multiple white hands before reaching the writer (and finally the museum), and the variety of channels through which the items have traveled document a history of North American colonialism. Traders, grave-robbers, pot-hunters, gamblers, and finally curators, who are implicated by association into the colonial history described.. As the items pass through multiple hands, their culturally and personally specific meaning is lost; the stones, for example, aren’t worth much because “no one knows what they are.” Though the letter seeks to engender economic gain, it is primarily a document of cultural loss. Cultural items and even body parts are described first as “stuff” and finally as “junk,” devalued over time, in contrast to the archival notions of pricelessness and irreplaceability. Human body parts are disembodied and described as a “conversation piece” for a trophy mantel, depersonalizing the fingers and equating them with hunting mounts. The bestial metaphor continues with the people from whom the jewelry was collected described as “extinct.”

In fact, the only personal history recorded in the letter is the family lineage of the writer, which is used as a means to demonstrate the *authenticity* of the items. Though they cannot be traced back to their original owners, they can be traced back to

the writer's "granddaddy." The writer's grandfather acquired the objects from the "fellow who originally came by these things" – a framing device that thoroughly dispossesses their Native makers from their creation and even their ownership. That is as far back as lineal knowledge goes, and when attempting to describe the origin of blanket and bonnet in the chest, the writer relies for his Native interlocutor on the near mythological "Crazy Horse himself." This is as close as Walters' white characters come to oral history, and that history is mobilized to dispossess Indian people and reinscribe Indian cultural property as belonging to a white history of conquest.

Native oral history, in contrast, holds a privileged place in the novel. *Ghost Singer* alternates "objective" and narrative modes – narrative is reserved for the Native characters – Anglo characters don't generally tell stories; or rather, they claim objectivity as a way to deny that their stories are stories. Anglo characters insist on mimesis and equate it with historicity, while Native characters' comparative verbal and epistemological flexibility suggests a richer understanding of worldly and ghostly phenomena as in relationship. The difference emphasizes the way in which Walters' Anglo characters see the world: as composed of facts and "artifacts," which serve as evidence. Thus their narrative mode is direct and mimetic. Native characters, however, use diagetic modes to connect stories of the past to the present day through the framework of relationship or kinship. The notions of kinship through which the novel's Indigenous characters relate do not rely solely on descent (which was radically interrupted by the violence of colonial expansion) but rather on kinship models that reach far beyond those that NAGPRA comprehends, including "our animal relations" (202). Though NAGPRA makes provisions for kinship in determining standing in

repatriation disputes, *Ghost Singer* reveals its limits and suggests an Indigenous alternative that would radically open standing to Indigenous peoples, regardless of recognition or ethnic/tribal category.

The novel positions contemporary Native tribes as “caretakers” rather than lineal descendents or cultural heirs, as NAGPRA will a few years later. The criterion for this caretaking has nothing to do with genetic inheritance, and everything to do with the internal integrity of the objects themselves: what is important is that “the people who created these items” (here Daylight uses people in the broad cultural sense of the word rather than to refer to individuals) “can still recognize most of what’s here, would be able to describe the purpose of each, and quite possibly may even have similar items among their respective groups today” (127). This caretaker model goes further than the model of “cultural affiliation” proposed in NAGPRA because it does not demand, as NAGPRA does, “a preponderance of evidence” that ties specific, recognized cultural groups to geographical and historical locations. In fact, the novel specifically denies the legal paradigm of recognition. While federal Indian law in general, and NAGPRA specifically, self-referentially reinscribes its power over Native people by “recognizing” them as subjects of itself, legible to its norms and scope, the Native characters in *Ghost Singer* are products of the mixed heritage of Native diaspora: slave raids against the Navajo, intermarriage between the Pueblo and Mexican Nationals, and other ethnic mixed bags. Some identify with specific tribes, some with multiple tribes, and many with a specific *place* that defines personal and cultural life through story or oral history. By drawing attention to the role of colonial

violence in the production of this diaspora, Walters implicitly rejects standing for repatriation on the grounds of lineal descent.

Walters suggests an even more radical path to questions of standing through her use of the Native ghost as a figure for grief and loss. Far from participating in the trope of the disappearing American, her ghost – the ghost singer – reappropriates the grief of cultural loss not as eulogy but as a call to repatriation. By positing an angry ghost who demands that objects and human remains be “freed” from the space of the museum archives (and therefore, by inference, freed of all the history of capture and theft that entails), Walters suggests a widely divergent understanding than the one ultimately proposed by NAGPRA.

By presenting a spectral representation of loss and grief, Walters refracts the notion of “injury in fact” back onto the stolen objects themselves, and onto a genetically and historically nonspecific “Indian” who demands repatriation. Thus, it is the objects themselves that sustain injury in the archive, and it is the idea of “Indianness” in the United States that is irreparably damaged by their classification as objects of the academic-imperial gaze.

In this way, Walters makes a claim for the standing of natural objects themselves, a position perhaps most widely known from Christopher Stone’s 1972 paper “Should Trees Have Standing.”<sup>35</sup> In the watershed 1972 law article, Christopher D. Stone enumerates the ways in which so-called natural objects (in his analysis,

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<sup>35</sup> I recognize the irony of using Stone here and elsewhere in this essay, given his sometimes stereotypical portrayals of Native people and Native life (see, for example the introduction of the book mentioned here, entitled “The Unthinkable.” However, despite this shortcoming the work has real relevance for understanding a legal discourse that moves beyond traditional conceptions of rights-holding individuals.

mostly environmental objects such as trees, rivers, and other “things” which are really ecosystems) are rendered rightless and construed as property (while Stone nests his ideas within the larger context of rights, Walters, as we have seen, suggests an alternate model. This will be taken up again in a moment). The three ways in which natural objects are understood as non-rights-holding are—according to Stone—standing, the deciding of merits, and the regarding of beneficiaries. Streams, to use Stone’s example, have not traditionally had standing in U.S. courts and therefore “there is in general no way to challenge the polluter’s actions save at the behest of a lower riparian—another human being—able to show an invasion of his rights” (12). Secondly, in deciding the merits of a case in which someone is competent to stand, those merits are decided by considering the rights of a property-holding human. Here, Stone cites the “‘general rule’ that ‘a riparian owner is legally entitled to have the stream flow by his land with its quality unimpaired’” (13). Finally, Stone claims that objects are rendered rightless by the terms through which beneficiaries of favorable judgment are decided. “Here, too,” he writes, “...it is not the natural object that counts in its own right” (14-15).

In *Ghost Singer*, unlike in NAGPRA, things construed as things—as “natural objects,” as “artifacts”—do in fact count in their own right. And the *Ghost Singer*, as the guardian of those things, is bound to protect them. So we see that there is, in fact, a legal discourse at work in *Ghost Singer*; a model in which cultural items and human remains might be seen as legally cognizable as the wards of contemporary (or even past) tribal people, who are ipso facto their guardians. Unlike Stone, however, Walters goes a step further to suggest that these agentic objects should not be returned

because it is their “right” to be returned, but instead because it is relationally proper and will restore balance to contemporary Native communities and individuals (the character Willy, for example, who becomes “ghost sick” after seeing objects in the archives).

Stone proposes that “‘property’ is not a thing but merely a verbal announcement that certain traditional powers and privileges of some members of society will be vigorously attacked by others” and suggests that an alternate model of standing would involve the granting of rights to natural objects themselves. He concedes that the premise is an unfamiliar one, writing “The fact is, that each time there is a movement to confer rights onto some new ‘entity,’” the proposal is bound to sound odd or frightening or laughable” (Stone 3). Walters builds her novel around this premise, replacing the framework of rights with one of relationality and vitality, and pairing it with an acknowledgement that for colonial regimes and their representatives, that paradigm is frighteningly other. Though Stone notes that in the years since the original publication of his piece some legal precedents have been achieved for the rights of natural objects, NAGPRA’s legislation thus far recognizes no such paradigm. Walters, however, presents it as a standard of repatriation appropriate to Indigenous cultures and peoples: the very parties NAGPRA seeks to protect. By doing so, she marks NAGPRA’s imaginative limits and its capitulation to and participation in a colonial regime of control over Native bodies, even after death.

*Bonnischen v. U.S.*

The differences I have been outlining in this chapter between the limitations of NAGPRA and the more radical repatriation imagined by Walters are perhaps best

demonstrated in a short reading of a court case that marks an important moment in NAGPRA's legislative history. In *Bonnicshen v. U.S.*, Native claimants lost repatriation rights to the skeletal remains of The Kennewick Man in the appeals process, largely because the Ninth Circuit Court found the oral testimony offered in support of cultural affiliation to be without enough "specificity or reliability" to support the claim. Instead, the court found that since the district court held that ARPA (the Archeological Resources Protection Act of 1979) rather than NAGPRA ruled the case, it did not need to review NAGPRA related documents at all in the case. In other words, the affiliated tribes who brought the case (along with the Secretary of the Interior) lacked standing.

The case inadvertently captures the spirit of the radical move toward repatriation Walters suggests. Arguing that NAGPRA must be narrowly construed to grant standing only in the case of presently existing tribes and members thereof, the court writes:

The requirement that we must give effect, if possible, to every word Congress used supports our holding that human remains must be related to a currently existing tribe to come within NAGPRA's protection. Under the Secretary's view of NAGPRA, all graves and remains of persons, predating European settlers, that are found in the United States would be "Native American," in the sense that they presumptively would be viewed as remains of a deceased from a tribe "indigenous" to the United States, even if the tribe had ceased to exist thousands of years before the remains were found, and even if there

was no showing of any relationship of the remains to some existing tribe indigenous to the United States (878).

The view of repatriation imagined in *Ghost Singer* would allow for precisely such an outcome. According to the court, this interpretation is both “extreme” and “absurd” and would render the terms of NAGPRA itself redundant. But in reaching this conclusion, the court relies heavily on a genetic interpretation of the Act’s clause “related to” a currently existing (read: recognized) tribe people, or culture. (878) The court interprets NAGPRA’s purpose to “benefit modern American Indians by sparing them the indignity and resentment that would be aroused by the despoiling of their ancestors’ graves and the study of their ancestors’ remains” (876). Here the court implicitly defines “ancestors” in the narrow, genetic sense (and quotes another court case as grounds for that interpretation, ensuring the reproduction of the colonial logic that predicated NAGPRA in the first place). Such a narrowly construed meaning of “related to” and “ancestors” stands in stark contrast to the indigenous philosophies of relation proposed in *Ghost Singer*, which often include not only humans not genetically related, but also elements of the natural environment more properly considered “objects” in western thought.

Perhaps even more importantly, the *Bonnischen* case found that the oral testimony offered by Indigenous parties to be unreliable in the determination of cultural affiliation. This is remarkable, considering oral and traditional testimonies are specifically permitted by NAGPRA; however, the court found that the accounts were just not specific or reliable enough or relevant enough to show a significant relationship of the Tribal Claimants with the Kennewick



Man. Because oral accounts have been inevitably changed in the context of transmission, because the traditions include myths that cannot be considered as factual histories, because the value of such accounts is limited by concerns of authenticity, reliability, and accuracy, and because the record as a whole does not show where historical fact ends and mythic tale begins, we do not think that the oral traditions of interest...were adequate to show the required significant relationship of the Kennewick Man's remains to the Tribal Claimants. As the district court observed, 8340 to 9200 years between the life of the Kennewick Man and the present is too long a time to bridge merely with evidence of oral traditions. (367 F.3d 864)

In May 2016, the Smithsonian Magazine published an article announcing that the Kennewick Man, after extensive genetic testing, was indeed genetically related to modern Native Americans. Twenty years after the original disinterment of "The Ancient One's"<sup>36</sup> remains, this new finding by the Army Corps of Engineers opens the door to repatriation through NAGPRA. The passage above from *Bonnischen v. U.S.* is telling in this context when paired with *Ghost Singer* not least because of the novel's recurrent insistence on the asymmetry of knowledge between tribes and federal representatives, and its reminders that *what counts as knowledge* varies widely between Natives and non-Natives.<sup>37</sup> If NAGPRA (and courts asked to adjudicate

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<sup>36</sup> "The Ancient One" is the name the modern Native American claimants have given the remains.

<sup>37</sup> See "America's Histories" in Krupat, Arnold. *Red Matters: Native American Studies*. Philadelphia: U of Pennsylvania, 2002. Print.

through reliance on NAGPRA) relies on “information possessed by the museum or federal agency” in order to establish eligibility for repatriation, *Ghost Singer* suggests that such a criterion is merely a continuance of a legacy of coloniality in the handling of Indian ‘artifacts’ and remains. The novel proposes instead a concept of repatriation that exposes NAGPRA’s imaginative limits, circumscribed by western capitalist notions of property and knowledge production. *Ghost Singer* imagines a world in which those limits are both acknowledged and transcended; it gestures toward the positive impacts of repatriation, while insisting on an interpretation of that impact that transcends traditional legal approaches. In the process, the novel posits a possible alternative to the logic of rights as it has been applied in NAGPRA and other federal repatriation legislation. Through an expanded vision of standing, the novel transcends those limits to suggest an alter(native) repatriation that relies on Indigenous knowledge and tradition; a model that would have seen the Kennewick Man’s ancient skeleton reburied because *it was relationally proper*, and the tribal claimants had a duty to protect that relationship.

## REFERENCES

- Birkhold, Matthew H. "Note: Tipping NAGPRA's Balancing Act: The Inequitable Disposition of "Culturally Unidentified" Human Remains Under NAGPRA's New Provision." *William Mitchell Law Review* 37.4 (2011): 2046-095. HeinOnline. Web. 15 Nov. 2015.
- Bonnischen v. U.S. United States Court of Appeals, Ninth Circuit. 4.Feb. 2004. *HeinOnline*. Web. 12 Dec. 2015. (367 F.3d 864)
- Buffalohead, Roger. "The History Behind the NMAI Act and NAGPRA." *Arizona State Law Journal* 44th ser. 0639 (n.d.): 640-43. Hein Online. Web. 15 Nov. 2015.
- Carroll, Rhoda, and Anna Lee Walters. "The Values and Vision of a Collective Past: An Interview with Anna Lee Walters." *American Indian Quarterly* Winter 16.1 (1992): 63-73. JSTOR [JSTOR]. Web. 11 July 2015.
- Cheyfitz, Eric. Ed. *The Columbia Guide to American Indian Literatures of the United States since 1945*. New York: Columbia UP, 2006. Print.
- Cheyfitz, Eric. "What Is a Just Society? Native American Philosophies and the Limits of Capitalisms Imagination: A Brief Manifesto." *The South Atlantic Quarterly* Spring 110.2 (2011): 291-308. Print.
- Crowther, Wendy. "Native American Graves Protection and Repatriation Act: How Kennewick Man Uncovered the Problems in NAGPRA." *Journal of Land, Resources, and Environmental Law* 20 (n.d.): 269-90. Hein Online. Web. 15 Nov. 2015.
- Customary IHL - Rule 128. Release and Return of Persons Deprived of Their Liberty." *Customary IHL - Rule 128. Release and Return of Persons Deprived of Their Liberty*. N.p., n.d. Web. 03 Aug. 2016.
- Driskill, Qwo-Li. *Walking with Ghosts*. Cambridge: Salt Pub., 2005. Print.
- Graber, Dorothy J. "Anna Lee Walters's Ghost Singer Links Native Diasporas in Time And Space." *Wicazo Sa Review* Fall 15.2 (2000): 7-16. Project MUSE [Johns Hopkins UP]. Web. 14 Jan. 2016.
- Gradwohl, D. M.; J.B. Thomson; M.J. Perry. *Still Running: A Tribute to Maria Pearson, Yankton Sioux*. Special issue of the *Journal of the Iowa Archeological Society* 52. Iowa City: Iowa Archeological Society. 2015.

"Mystery of the First Americans." NOVA. PBS. 15 Feb. 2000. Television.

Pearson, Maria D. "Give Me Back My People's Bones: Repatriation and Reburial of American Indian Skeletal Remains in Iowa". In G. Bataille, D.M. Gradwohl, C.L.P. Silet. *Perspectives on American Indians in Iowa- An Expanded Edition*. Iowa City: University of Iowa Press. 2000.131–141.

Poremski, K. M. (2015). Voicing the bones: Heid Erdrich's poetry and the discourse of NAGPRA. *Studies in American Indian Literatures*, 27(1), 1-32,128.

Robertson, Lindsay Gordon. *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands*. Oxford: Oxford UP, 2005. Print.

Schneider, Bethany. "A Modest Proposal: Laura Ingalls Wilder Ate Zitkala-Sa." *GLQ: A Journal of Gay and Lesbian Studies* 21.1 (2015): 65-93. Print.

Stone, Christopher D. *Should Trees Have Standing?: Law, Morality, and the Environment*. New York, NY: Oxford UP, 2010. Print.

Tatschner, Florian. "Ghosts in the Archive; Re-Vis(ion)ing Transnational Perspectives with Anna Lee Walters's *Ghost Singer* and Diana Taylor's *The Archive and the Repertoire*." *Current Objectives of Postgraduate American Studies* 16 (2015): 1-21. Print.

Tillett, Rebecca. "'Resting in Peace, Not in Pieces': The Concerns of the Living Dead in Anna Lee Walters's *Ghost Singer*." *Studies in American Indian Literatures* Fall 17.3 (2005): 85-114. Print.

United States. Government Accountability Office. "Native American Graves Protection and Repatriation Act: After Almost 20 Years, Key Federal Agencies Still Have Not Fully Complied with the Act." 2010.

U.S.C 25, §§ 32-3001-3057 (1990). Print.

U.S. Constitution. Article 3, Section 2.

Vizenor, Gerald Robert. *Fugitive Poses: Native American Indian Scenes of Absence and Presence*. Lincoln, Neb.: U of Nebraska, 1998. Print.

Walters, Anna Lee. *Ghost Singer: A Novel*. Albuquerque: U of New Mexico, 1994. Print.

Yasaitis, Kelly E., Esq. "NAGPRA: A Look Back Through the Litigation." *Journal of Land, Resources, and Environmental Law* 25.2 (2005): 259-85. *Hein Online*. Web. 15 Nov. 2015.

## CHAPTER 4

‘Unquiet Title’: Leslie Marmon Silko’s *Almanac of the Dead* and Title 18<sup>38</sup>

The question of genocide is never far from discussions of settler colonialism. Land is life—or, at least, land is necessary for life. Thus contests for land can be—, indeed, often are—contests for life. – Patrick Wolfe, “Settler Colonialism and the Elimination of the Native”

Europeans did not listen to the souls of their dead. That was the root of all trouble for Europeans. – Leslie Marmon Silko, *Almanac of the Dead*

Leslie Marmon Silko’s *Almanac of the Dead* is often regarded as the author’s masterpiece, and is considered a cornerstone of contemporary Native American fiction. The tome-like novel comprises a sweeping critique of the matrix of capitalism and New World colonialism, and envisions an antidote to those intertwined phenomena that transcends the resources and ideologies of Marxism. That antidote is imagined as a movement of the oppressed: American Indians, Black Americans, homeless people, and others in solidarity; a movement rooted in a tribal perspective that is nonetheless accessible to all. At the heart of the novel is the titular *Almanac*, which not only chronicles the historical transgressions of European conquest, but also predicts a time when “white people” and their world will cease to exist.

Although the novel is set in the southwestern United States and Mexico, it does not obviously participate in the narrative traditions and visual topoi of the Western.

Rather, its settings are a mix of urban and marginal, with climates ranging from arid to

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<sup>38</sup> Leslie Marmon Silko’s novel is both titled *Almanac of the Dead* and describes a fictional Native document of the same name. In order to avoid confusion in this chapter, I have place Silko’s novel in italics when using its title, and left the fictional *Almanac* un-italicized.

tropical. The novel's characters are similarly outside the normal bounds of the Western: real estate tycoons, homeless vets, cocaine addicts and Indigenous soothsayers populate the novel's pages. Yet it is important to read *Almanac of the Dead* as a Western, primarily because of its reliance on "Indian Country" as the focal point around which the narrative revolves. "Indian Country" is perhaps the ultimate expression of the coevolution between legal and popular culture narratives about Native people that this dissertation has been exploring. Legally defined under Title 18 of the U.S. Code, and popularly imagined as a dangerous hinterland beyond the reaches of civilization, the term constitutes an important cultural formation of the West as a wild place that must be tamed or "won," making it a critical nexus for exploring the Western genre. The novel draws on the cultural fear and excitement associated with Indian Country in order to imagine a total reclamation of Indian lands, rewriting the Western tradition of winning the West from an Indigenous perspective.

The book's opening pages contain a "Five Hundred Year Map" from the so-called *Almanac of the Dead* – a piecemeal document, passed down through generations of Native people, that chronicles the oppression and genocide of Native people and places the European conquest in the context of deep Native history. The map centers on southern Arizona and northern Mexico, and along with schematic lists of the book's characters and figures and words representing sacred sites, the map contains four "keys." The main key under the map's title gives its purpose, and the purpose of the *Almanac* itself: "Through the decipherment of ancient tribal texts of the Americas the *Almanac of the Dead* foretells the future of all the Americas. The future is encoded in arcane symbols and old narratives" (Silko np). The other keys illuminate

specific elements of the map and the novel. The key labeled “Tuscon, Arizona” marks the central location of the novel as a den of thieves, addicts, and criminals “since the 1880s and the Apache Wars.” The “Indian Connection” clarifies the stakes of the novel: although “sixty million Native Americans died between 1500 and 1600,” the map states that “defiance and resistance to things European continue unabated...Native Americans acknowledge no borders; they seek nothing less than the return of all tribal lands.” The final key contains the “prophecy” that organizes the novel. It reads in part, “Ancient prophecies [of the Maya, Azteca, and Inca cultures] foretold the arrival of Europeans in the Americas. The ancient prophecies also foretell the disappearance of all things European” (Silko np). So in the book’s opening image, colonial and Indigenous stories about the land are overlaid; the narrative of the map’s keys, however, stresses an anticolonial narrative that envisions a future in which colonialism is temporary and destined for extinction.

Just as the keys inset in the map provide a guide to reading it and deriving meaning from it, the map itself acts as a key to understanding Silko’s novel: it places characters and events in space, and lays out the book’s major incidents. More importantly, it provides a schema for the political action of the book, in which characters from all parts of the United States converge in Tuscon, Arizona (their movement delineated by arrows radiating from the edges of the map toward Tuscon at the center) to commence the action prophesied by the Almanac and virtually enacted by the novel: the disappearance of “all things European” and the ascendancy of tribal power and solidarity. What’s more, the map and its keys place this tribal power in history, and force multiple histories into one spatial representation. Thus ancient



stories and contemporary political action are placed side by side, with an emphasis on the ascendancy of Indigenous stories suggesting a continuity that the book identifies as tribal, and as proper. The map, then, prefigures the novel's major themes: the endurance of Native life in the Americas and the import of that endurance as a means to resist ongoing global colonialisms. As will become clear in my reading, in the map as well as in the novel, a history of oppression becomes a valuable tool rather than simply a historical burden.

It is difficult to pinpoint a central character, or even a central narrative, in the novel. Instead, readers jump from one story and set of characters to another, and only late in the book do connections begin to be made between disparate stories and characters. The result is a sensation of funneling and inevitability. As connections between the novel's vignettes become clear, the reader is forced to acknowledge the possibility that the novel's action takes place on a global scale. The impression is intensified by the emphasis on interstate and global markets and trade in both legal and illegal avenues. Likewise, and in direct contrast, the novel deliberately draws global connections between different tribal peoples, particularly in Africa and the Americas. So, although the novel takes place primarily in an iconic part of the American West, its networks extend outward to comprehend action on a global scale. This has important implications for the novel's discussion of colonialism and resistance to colonialism, because the novel envisions a pan-tribal resistance movement that, while grounded in Indigenism, is fundamentally accessible to all marginalized and dispossessed peoples. My reading of the novel will take up these premises at length..

*Almanac of the Dead* is seriously understudied, with a few notable exceptions. In a chapter on the novel in her 2009 *Mapping the Americas*,” Shari Huhndorf claims that the novel is an example of how “Native writers and artists...frequently refer to visual representations to reveal and potentially neutralize their colonial function, turning these images to subversive purposes” (Huhndorf 22). Huhndorf’s analysis of *Almanac* turns on her reading of the book’s opening map, which recontextualizes the history of the Americas as Indigenous history and therefore “reveal[s] borders to be recent inventions that bear little relation to hemispheric social interactions and Native connections to the land that stretch back to the precontact period...*Almanac* represents the particular challenges that indigenous histories and land claims pose to colonial nation-states, as contemporary indigenous rebellions and transnational hemispheric alliances threaten their very existence” (142). These challenges that Huhndorf so succinctly summarizes will be crucial to my own analysis, which will demonstrate that the effectiveness of that recontextualization, particularly as wrought by Native “ancestors,” evinces a newly politicized reading of the potential of the Native ghost. That is, in Silko’s novel, the ghosts of Indigenous ancestors respond directly and effectively to a (post)colonial legal quandary over Native land, and recontextualize that land within the long scope of Native history as a means to reclaim it.

Another recent collection edited by Rebecca Tillett, *Howling for Justice: New Perspectives on Leslie Marmon Silko’s Almanac of the Dead*, was published in 2014 and marks a much-needed corrective to scholarly unfamiliarity with the novel. In her introduction, Tillett acknowledges the novel’s difficulties, writing that “Readers have found themselves confused by the sheer size of the text and by the vast number of

interrelated characters, swollen further by the presence of millions of dead indigenous Americans and African slaves; by the text's insistence that readers repeatedly unsettle and relocate themselves, culturally, geographically, even temporally" (Tillett 6). This collection organizes itself around Silko's own stated goals for the novel of complicating notions of nationhood (9) through multiple channels, and explores the novel's commitment to transnationalism in political dialogue and activism. In Tillett's own contribution, she notes that the novel demands a reader who acts as an active witness and becomes deeply implicated in its political stakes. (17) From this premise, Tillett makes claims for the prescience of the novel's critique of capitalism: "Occupy Wall Street and the indigenous activist movement Idle No More...are significant to my rereading of *Almanac*, not simply for their connected concerns, but also for the ways in which those concerns echo and interact with the multiple concerns of Silko's text, including *Almanac's* insistence on the political and social power of interconnected communities" (21). Eric Cheyfitz has also pointed out the novel's prescience, particularly in its links to the Zapatista movement, which rereads Marxism from an Indigenous perspective (Cheyfitz 22).

In what follows, I will examine the novel's imaginative antidotes to capitalist-driven neocolonialism, which *Howling for Justice* takes up at length, as well as its philosophical gambit, which envisions a scenario in which the novel's prophecy of the end of European colonization in the Americas might be accurate. In doing so, I hope to add two insights related to what Tillett has called the novel's "reinvigorate[ion] of popular political agency" (24). First, this chapter will explicitly connect the threads of respatialization and re-narrativization—the philosophical underpinnings that support its

imagined remediation of European capitalist colonialism and neocolonialism. In particular, I will connect these moves to re-understand the history of the Americas as directly related to a discourse of land, and—even more particularly—to the discourse of “Indian Country.”

Secondly, I will look to the novel’s “prophesy” as a direct challenge to and reversal of the discursive ghosting of Native American people in the U.S. literary and historical canons. Perhaps more than any text I have treated so far, *Almanac of the Dead* refuses the rhetoric of Native disappearance and underscores the permanence and endurance of Native life in the Americas, contrasting it with an excessive and fleeting Euro-American existence that is so destructive that it must eventually be destroyed or destroy itself. As we shall see, *Almanac*’s ghosts are an essential component of the novel’s reimagining of Indian Country.

The novel achieves these aims largely by remapping Native territory in the Americas, with the assumption that all territory is stolen Native territory. Its Native characters both claim kinship with the land and demand ownership of it. Even the novel’s arguably most radical character, Angelita “La Escapía,” envisions the “great struggle” against capitalism as a fight to “regain all the lands of the Native American people” (Silko 315). This remapping is the outcome of centuries of resistance, which the novel argues is the story, or history, of the Americas. La Escapía’s Marxism, which will be discussed at length later in the chapter, relies on this history. Reflecting on her ideological commitments, she thinks “This man Marx had understood that the

stories or ‘histories’ are sacred; that within ‘history’ reside relentless forces, powerful spirits, vengeful, relentlessly seeking justice” (316).<sup>39</sup>

In other words, the Almanac (and the novel that shares its title) is an example of “deep time,” which Wai Chee Dimock has claimed

Produces a map that, thanks to its receding horizons, its backward extension into far-flung temporal and spatial coordinates must depart significantly from a map predicated on the short life of the U.S. For the force of historical depth is such as to suggest a world that predates the adjective *American*. (759)

The Almanac, by renarrativizing colonialism within the context of a “deeper” Indigenous time, also remaps the post-Invasion Americas in accordance with that deep time. Thus the titular Almanac, along with the novel itself, is both a map and a history. By reinterpreting “ancient tribal texts” in a tradition of resistance, it takes Indigenous peoples’ unshakeable permanence on the land as undeniable evidence for their continued survival. It foresees European disappearance as inevitable, precisely because of a lack of connection to the land. America, in the novel is Native America, and as a result all land is Indian Country. The novel self-consciously leverages the language of “Indian Country” in order to expose and explode the limits of that term. For that reason, a reading of the novel alongside United States Title 18, which legally defines “Indian Country,” will usefully elucidate the political stakes of the novel and

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<sup>39</sup> For a reading of La Escapía’s re-envisioning of Marxism, see Cheyfitz, Eric “What Is a Just Society? Native American Philosophies and the Limits of Capitalism’s Imagination: A Brief Manifesto.” *South Atlantic Quarterly* 110.2 (2011): 291-307. Web.

contextualize its claims for the disappearance of Europeans. *Almanac* enacts a reversal of Manifest Destiny by imaginatively reclaiming Indian land and “disappearing” Europeans both literally (even violently) and discursively.

### **Title 18**

When Silko’s novel undertakes to redefine “Indian Country,” that goal exists on two registers. On the one hand, the idea it seeks to revise is not an imprecise or invented one (at least by Silko), but a strict legal definition. On the other, Indian Country occupies a distinct place in the United States cultural psyche that the novel seeks to destabilize.

Despite its association, particularly in Westerns, with a vaguely dangerous place “out there,” Indian Country is clearly set out and bounded in the United States legal code under Title 18. More specifically, Indian Country is defined in a single paragraph in Part I, Chapter 53 of Title 18, which is part of the U.S. criminal code. The paragraph reads as follows:

Except as otherwise provided in sections 1154 and 1156 of this title, the term “Indian country”, as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished,

including rights-of-way running through the same. (18 U.S. Code § 1151)

The two exceptions mentioned at the beginning of the quoted paragraph deal with “Intoxicants dispensed in Indian Country” (§ 1154) and “Intoxicants possessed unlawfully” (§ 1156), and for the purposes of those laws the territory comprising Indian Country is even more restricted (it does not include fee patent lands or right of ways). For every other legal purpose, the short section reproduced here defines what may be considered Indian Country. The definition has had vast legal repercussions for Native people, from legal restrictions to federal benefits. Because federal Indian law for the most part applies to tribes rather than individuals (contemporary Native people derive individual rights through their status as U.S. citizens), the definition of Indian Country provides the framework from which federal Indian law hangs. In other words, the language above denotes the tribal land and the federally recognized tribes over which federal Indian law applies. In that capacity, it denotes the land that is reserved for tribal use and distinguishes it from “non-Indian” land.

With that in mind, it is useful to note how limited the definition of Indian Country is, and how limiting its definitional boundaries are for tribes. First, the law reiterates and emphasizes the trust relationship between the U.S. federal government and tribes<sup>40</sup>, and encodes that relationship through land ownership: that is, the federal

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<sup>40</sup> *Cherokee Nation v. Georgia* (30 U.S. 1), which addressed the question of the Cherokee Nation’s status as a foreign state, characterized the Cherokee as a “domestic dependent nation,” and is general considered the foundation of the trust relationship between the tribes and the federal government. Chief Justice John Marshall described the responsibility of the federal government to the tribes as that of “a ward to his

government is the owner of all “Indian” land.”<sup>41</sup> Subsection (a) specifies that all land held in trust by the federal government for tribes, as well as all land owned outright by tribes or tribal members (including rights of way through the land) are considered “Indian Country.” All of this land is considered reservation land. (epa.gov) Under subsection (b), the law goes on to clarify that even Indian communities residing within states meet these criteria, again emphasizing the “special relationship” between tribes and the federal government. The EPA’s factsheet about Indian Country explains that the “dependent Indian communities” mentioned in the code are “a category of Indian country that are not Indian reservations or individual Indian allotments and that satisfy two basic criteria. First, they must have been set aside by the U.S. Government for the use of Indians as Indian land. Second, they must be under federal superintendence – that is, the federal government must exercise a degree of control or oversight of these lands for Indian purposes.” (epa.gov) Again, though this expands the definition of Indian Country somewhat significantly, it is crucial to note the requirement for federal superintendence or ownership.

Finally, subsection (c) includes all Indian allotments that are either held in trust or otherwise subject to alienation restrictions by the federal government. This section refers to the General Allotment Act of 1887, also known as the Dawes Act, which gave then President Grover Cleveland authorization to survey and break up reservation land, parceling it out to individual Native families in an attempt to end the reservation

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guardian.” The result is the permanent legal minoritization of tribes and ongoing legal struggles for tribal sovereignty.

<sup>41</sup> Land held in fee by Indians is not considered Indian country unless it is within the boundaries of a reservation.



system altogether. Thus the current definition of Indian Country encompasses residual policies from the much-maligned period of tribal-federal relations now known as the “Allotment Era,” during which the federal government sought to eradicate communally held Indian land altogether in an attempt to assimilate Native people to “American” life. What is more, Indian allotments that are owned by the federal government and held in trust, whether on or off the reservation, have a status of inalienability: the Indian “owner” may not sell or transfer the land to a buyer. This too emphasizes the trust relationship mentioned above, under which tribes or individuals may not sell “Indian land” to any buyer but the federal government itself. It also suggests how deeply tribal and individual Native autonomy is delimited by a legal system that has placed them in the position of perpetual minors; Indian Country is still, in many ways, federal country, a fact in light of which the name seems like both a cruel joke and a synecdoche for the history of antimony between tribal governments, the federal government, and individual settlers and Native people.<sup>42</sup>

So, to insist on this bounded definition of Indian Country is not to deny its place in the American imaginary. Indian Country has also been, historically and

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<sup>42</sup> These policies changed over time. From the Indian Land Tenure Foundation website: “Under the policy of allotment, Indian land ownership was not the same as land ownership for other homesteaders. Non-Indian settlers could sell or alienate their land because they had complete fee simple ownership. Under the General Allotment Act, Indian allottees were declared ‘incompetent’ to handle their land affairs and the United States would retain legal title to the land as trustee for the allottee; Indian allottees only had beneficial or usufruct title. In other words, as long as the allotment was held in trust by the federal government, the Indian landholder could use the land but not sell it or lease it without the federal government’s approval. However, the Act stated that 25 years after the allotment was issued, Indian allottees would be given complete, fee simple ownership of the land. At that point, the landowner could sell or lease it to anyone.” (“History of Allotment.” *Indian Land Tenure Foundation*. Indian Land Tenure Foundation, n.d. Web. 31 July 2016.)

discursively, a place of violence. As noted above, its territory provides a spatial representation of legal depredations on Indian communities, from the creation of the reservation system (1830-1868) to its attempted termination (1940 – mid-1960s). Meanwhile, the phrase is so powerful in the non-Native American psyche that, as Ann McClintock has pointed out, it “has been used by the United States to characterize as yet unsubjugated territories in active war zones around the world” (McClintock 826)<sup>43</sup>. McClintock calls this a “symbolic wounding,” and recognizes that wound as a critical component of the United States’ program of “imperial ghosting” (826). Thus Indian Country is the fraught physical and psychic space in which the legal mechanisms that facilitated “the slow genocide of American Indians” (McClintock 821) intertwine with the discursive ground upon which such mechanisms became operative. Into this overdetermined space *Almanac* makes a critical intervention, pivoting from a demarcation of Indian Country that is bounded by violence against Native people (legal and cultural) and toward a respatialization that comprehends all “Indian land” *as defined by Native people themselves*, while at the same time visiting the violence of forced “disappearance” on the very non-Native communities responsible for Native genocide.

### ***Almanac’s critique of “Indian Country”***

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<sup>43</sup> See also Drinnon, Richard. *Facing West: The Metaphysics of Indian-hating and Empire-building*. Minneapolis: U of Minnesota, 1980. Print.; Cheyfitz, Eric. "'Reservation Iraq' Will Be Costly to the U.S." *Indian Country Today Media Network.com*. Indian Country Today Media Network, 11 Apr. 2003. Web. 31 July 2016. And Cook-Lynn, Elizabeth. *New Indians, Old Wars*. Urbana: U of Illinois, 2007. Print.

Zeta, one of two twin sisters charged with keeping and translating the Almanac of the Dead, articulates the simple premise that underpins Silko's novel: "There was not, and there never had been, a legal government by Europeans anywhere in the Americas. Not by any definition, not even by the Europeans' own definitions and laws. Because no legal government could be established on stolen land. Because stolen land never had clear title" (133). This meditation is crucial to the book's critique of Indian Country, and to the way that the novel ties that critique to a larger indictment of neocolonialism and its capitalist foundations. This principle on which the novel is built means that in the world of the novel no western institution—social, financial, or legal—can exist in its world without corruption. Equally, the primacy of Indian land marks the novel's departure from more traditional Marxist critiques of those same western institutions. In this novel, Indian Country is reimagined not as a place that bears the scars of colonialism and marks the ongoing legal machinations of that colonialism, but instead as a place of strength and solidarity that might be "taken back" from a neo-colonial government and its (white) private beneficiaries.

More particularly, *Almanac of the Dead* constitutes a critique of the definition of Indian Country described above in two main ways. First, insofar as the novel enacts a critique of capitalism, it scrutinizes and deconstructs the very philosophy on which the economy that demanded and appropriated Indian lands in what became the United States is based. Secondly, the novel imagines a re-mapping of Indian Country—what critic Alex Hunt has called the novel's "radical geography"—predicated not on U.S. colonialism but on the traditions of Native people and communities (embodied in the novel by the Almanac itself) and an anti-capitalism that is informed by both Marxism

and, more importantly, Indigenous philosophies. Ultimately, the novel conceives an “army” of marginalized and disenfranchised figures whose destiny, as written in the Almanac, is to take back Indian land and facilitate the “disappearance” of Europeans from the North American continent. Thus, as in this dissertation’s reading of *Dead Man*, the novel envisions a kind of reversal of the standard myth of Manifest Destiny, in which Native people were “destined” to “disappear” in the wake of Euro-American settlement.

*Almanac of the Dead* ties this myth of Manifest Destiny directly to capitalism, and the heart of the novel is its scathing critique of that system’s explicit and illicit links to colonialism and neocolonialism. For example, the novel describes Tucson, Arizona this way:

“Legitimate business”? That was the joke of the century in Tucson. Even the new Federal Building sagged dangerously because so much steel and concrete had been “diverted” by subcontractors during construction. Tucson had families of thieves going back three generations; they had been stealing from the U.S. government since the Apache Wars, so what were a few hundred thousand yards of concrete or a few dozen steel beams? (434)

The passage is remarkable in the way it seamlessly ties corrupt business with corrupt government in an ongoing relationship (“even the new Federal Building”), while simultaneously connecting that corruption to the history of government-endorsed settlement projects in the United States (since the Apache Wars, which were fought in part over the territory cut through by American Westward Expansion Trails). In

*Almanac*, capitalism—particularly trans-national capitalism—is inherently corrupt and exploitative. As the passage above indicates, there is no “legitimate business;” the line between the legal and black markets is irrevocably blurred. What is more, in many cases, those markets are tied to military and paramilitary violence (and, again, the novel emphasizes the historical continuity of this relationship). Real Estate developer Sunny Blue is also an arms dealer; Blood Bank entrepreneur Trigg bleeds homeless people to death to harvest their organs for the black market; Mexican mogul Menardo’s Universal Insurance company maintains a private army of sorts: “for only a few thousand dollars or a few million pesos...a businessman...could be protected against uprisings, riots, unrest, and even mutiny by government forces” (435). This vision of extreme privatization and deep corruption presents nightmarish possibilities for the novel’s many marginalized characters; however, these powerful people and institutions are in fact exposed as fragile and vulnerable precisely because of their unsustainable use of resources and people. In contrast, Indigenous peoples and philosophies are enduring and, in the world of the novel, present powerful possibilities for anti-capitalist action.

In a chapter entitled “Vampire Capitalists” is a vignette that exemplifies the novel’s critique of capitalism and its ties to violence. The section introduces a new character, Angelita La Escapía, whose vigorous understanding of communism is informed by her political and ethnic status as an Indigenous person. La Escapía is a colonel in Chiapas’ “Army of Justice and Redistribution;” however, her aims significantly differ from those of her comrades. The robust critiques of both capitalism

and communism that her musings represent in the novel constitutes its philosophical heart, and are therefore worth dwelling on at some length.

For La Escapía, reading Marx for the first time had been “the first time a white man ever made sense” (311). Marx agreed with the “old-time people” that the violence of colonization and capital accumulation should not be forgotten, and La Escapía characterizes him as a story-teller in the tradition of Indigenous elders (311-312). Marx, she thinks, “had understood that the stories or ‘histories’ are sacred; that within ‘history’ reside relentless forces, powerful spirits, vengeful, relentlessly seeking justice” (316).

Ultimately, though, La Escapía recognizes that her interpretation of Marx differs from communism, even Marxism, writ large, and reflects that Marxism is flawed both because “Marx...and his associates...were Europeans to start with,” and because “anything, certainly any philosophy, would have been too feeble to curb the greed and sadism of centuries” (316). These weaknesses, for La Escapía, are what led to the depredations of Stalin and Mao; for her, the only corrective for communism’s flawed critique of capitalism is the same corrective for capitalism itself: a deep understanding and grounding in Indigenous philosophy. In fact, those philosophies, in *Almanac*, preempt Marxism by embedding ideas of communalism into traditional narratives, supplanting dialectic with narrative.<sup>44</sup> By grounding in Indigenous epistemology in this way, the novel divorces Marxism’s redistribution narrative from the language of

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<sup>44</sup> See Krupat, Arnold. *All That Remains: Varieties of Indigenous Expression*. Lincoln: U of Nebraska, 2009. Print. In particular, Krupat’s chapter “Trickster Tales Revisited” distinguishes Native philosophy built on narrative from Western philosophy built on the dialectic.

property—and in fact of the economic—and forces it into the realm of kinship. This shift gives the novel a language from which to critique capitalism that is not simultaneously embroiled with it.

For example, mentioning the importance of history in Marx's writings, she follows that rumination with the following: "The old people had stories that said much the same, that it was only a matter of time and things European would gradually fade from the American continents. History would catch up with the white man whether the Indians did anything or not. History was the sacred text. The most complete history was the most powerful force" (316). History is a "sacred text" because of the way the old peoples' stories inform the present, and for the contextualization it provides. La Escapía's understanding of it as such provides the foundation for the novel's re-narrativization of the hemispheric history of North, Central, and South Americas. That is, the novel understands that history as Native history; in that understanding lies an implicit critique of a colonialist understanding of the history of the Americas as the history of the success of capitalism. In order for social activism to be effective, the history of the Americas must be "completed." La Escapía's "army" is founded on this principal.

La Escapía's narrative, tribal understanding of anti-capitalist resistance is complimented and enriched in the novel through the narration of another "Army of Justice" (424)—an "army" of the homeless led by a Black Vietnam veteran identified only as Clinton. Clinton's army, like La Escapía's, is interested in redistribution; unlike La Escapía though, Clinton presents his vision dialectically rather than narratively. On his amateur radio show, Clinton regularly broadcasts his views on

slavery, which recapitulate Hegel's Master-Slave dialectic and emphasize the Master's ultimate reliance on the slave. He presents a 13-point Marxist-Freudian interpretation of the Hegel, several points of which are reproduced here:

4. The slave is the polestar of the Master's life. The slave will always receive the Master. The slave becomes part of the Master, and perfection becomes possible.

5. The slave has no identity but through the Master; slave identity is not a fully human identity.

6. Slaves may serve as laborers, but slaves exist primarily to satisfy sexual and ego needs of the Master.

12. The slave is offered to Death in place of the Master; thus the slave "becomes" the Master if only for an instant as the slave dies.

13. The slave accumulates power in the realm of the Master's dreams.

Gradually, the slave inhabits the Master's idle thoughts during his waking hours. The Master's obsession enslaves him. (427-8)

In Clinton's philosophy, the dialectical opposition between slave and master is resolved when the two become indistinguishable from the other: the Master's obsession making him a slave and the slave's sacrifice transforming him into the Master. Embedded in his understanding of the Master and the slave is Hegel's formulation of the relationship between recognition and the development of self-consciousness. Interestingly, Though Clinton's character participates in an interpretive history that has re-read Hegel alongside the problems of colonialism, Clinton's interpretation of Hegel differs widely from Frantz Fanon's, who wrote in *Black*



Skin/White Masks, “I hope I have shown that here the master differs basically from the master described by Hegel. For Hegel there is reciprocity; here the master laughs at the consciousness of the slave. What he wants from the slave is not recognition but work”. (Fanon 220). For Clinton as well as Hegel, reciprocity is codified in the relationship between Master and slave.

I bring all of this up because the novel itself insists on transnational and trans-philosophical alliances between tribal people and anti-capitalist ideas. Clinton’s Marxist critique *must* be completed and complemented by Indigenous philosophy in order to be an effective tool to take back land, and the land that is taken back must be Indian land. In this marriage, the novel envisions a corrective for the two “original sins” of U.S. capitalism: the theft of life concomitant to chattel slavery, and the theft of land associated with the dispossession of Native peoples.

At the novel’s end, it appears inevitable that these two armies will indeed join forces, as The Army of Justice and Redistribution marches north toward Arizona, where the army of the homeless has conceived a plan to take over U.S. military bases. In other words, the novel imagines a world in which these two visions of anti-capitalism coalesce in space, filling in each others’ gaps not only intellectually but tactically. The alliance’s goal—as prophesied by the Almanac of the Dead—is to take back Indian land, presenting a vision of justice for Native people through solidarity with other marginalized peoples, who visibly occupy the very spaces they hope to regain. The Almanac of the Dead provides a sort of counter-map for the movement, predicting a world in which Euro-American spaces will be overwritten and re-understood as Native territory.

This is why the map at the beginning of the novel, presumably lifted from the Almanac itself, is called a “Five Hundred Year Map:” Silko has said that the novel is her “763-page indictment for five hundred years of theft, murder, pillage, and rape.” (from Ammons 158) But the Five Hundred Year Map implies much more: it names and marks places of colonial violence while re-interpreting that violence within an even longer history to suggest a renarratizing of history, and a concomitant respatialization of territory, that reflects Indigenous rather than European priorities. This also explains, at least in part, why the novel shares a title with the Almanac it describes. The novel, too, seeks to provide a counternarrative to European-American history in which Native stories are not only powerfully predictive but facilitate a movement that will physically take back stolen Native land. This is perhaps the novel’s most radical suggestion: Silko imagines Native stories as a way not only to provide an abstract counternarrative to Euro-American history, but as a way to bind DeCerteauian tactics into consequential group action, action that blocks the teleologies of western Capitalism and neo-colonialism.

Importantly, all this occurs in the novel through a “boots on the ground” approach that requires marginalized people to mass together in order to become both visible and legible as a legitimate obstacle to state-sanctioned land theft. Spatially and narratively, the novel’s conflicts unfold in accordance with Michel DeCerteau’s distinction between tactics and strategies. DeCerteau delineates a discrepancy between the way spaces are created and controlled by institutional power, and the ways those spaces are *used* by the actors who move through them, with the latter being a “tactic” to resist state jurisdiction over the intimacies of individual lives. DeCerteau’s “every

day life” “invents itself by poaching in countless ways on the property of others” (2). Silko’s resistant characters literalize this relationship, reclaiming land by transgressing property boundaries. The novel’s spaces are unfailingly produced through the admixture of institutional power (strategies) and those who use institutional power’s very structures to subvert it (tactics). *Almanac*’s chief tacticians are the overtly marginalized, including Angelita La Escapía and her Army of Justice and Redistribution (who join with other marginalized Indigenous people and groups before marching north) as well as Clinton’s Army of the Homeless.

The chief disparity between DeCerteau’s vision and Silko’s—and it is an important one—is that for DeCerteau successful resistance lies in the ability to defy state power through illegibility (that is, using the physical environment in ways panoptical institutions could not track or predict), while for Silko power comes from forcing the state to recognize Indigenous presence and power. In *Almanac*, the techniques employed by the two contrapuntal “armies” are solidly within the realm of the tactical: they squat in homes and, eventually, on U.S. Army bases. They steal food and raid bank accounts. But because of their sheer numbers (one chapter heading describes them as “swarms of squatters”), they affect permanent change by exploiting the structures of the capitalist market they seek to dismantle:

the boss ordered Universal Insurance Company’s security forces to coffee plantations to sweep the surrounding hills of Indian squatters, their shanties, and their gardens. Over and over it happened; the squatters dragged together debris for shacks and scratched out small garden plots. Then armed ‘security guards’

trampled the gardens and burned the shacks. The strategy of the squatters was simple: make a thing unprofitable and watch the white man leave. (474)

It is not coincidental that Silko's tacticians cannot, or will not, remain underground. Their strategy to "watch the white man leave" is simultaneously a technique to reclaim—discursively and physically—Indian land, and also to rewrite the politics of Indian recognition. The novel points up the incommensurability of recognition grounded in Indigenous beliefs and practices and the recognition conferred by an invader government with its settler colonial inheritance.

In tying Native land to the legal and cultural concept of Recognition, Silko suggests an alternate paradigm for understanding Indigeneity in North America, and an alternate path to justice for Native people. Just as there has "never been a legal government" of European Americans in the U.S., recognition by such a government cannot define what it means to be Native, or what it means to be "tribal." In other words, the novel enacts what Glen Coulthard has called "rejecting the colonial politics of recognition." Coulthard criticizes the liberal-pluralist "politics of recognition," which "seek to 'reconcile' Indigenous assertions of nationhood with settler state sovereignty via the accommodation of Indigenous identity claims in some form of...legal and political relationship with the...state" (Coulthard 3). Though Coulthard writes specifically about the Canadian context, in the United States Recognition is a crucial legal and social construct that defines Indigenous status in the eyes of government institutions, often in coercive ways and often with the implied goal of policing Native identities. Coulthard avers that the matrix of Recognition must be

rejected because Native and settler objectives are fundamentally un-aligned, and that to do so is to reject the indigenous/settler colonial relationship itself.

This is the radical reckoning Silko undertakes: to redefine Native land by redefining who gets to decide what “Native” means. And along with the novel’s rejection of recognition comes a rejection of the entire Indigenous-settler colonial relationship, including the concepts of land and property that buttress it. The novel’s first book ends with Angelita La Escapía’s private declaration of revolution, in which she declares that “Change was on the horizon all over the world. The dispossessed people of the earth would rise up and take back lands that had been their birthright, *and these lands would never again be held as private property*, but as lands belonging to the people forever to protect” (532, emphasis mine).

### ***Almanac as a Ghost Story***

*Almanac of the Dead*’s portrayal of ghostly Natives is perhaps the most oblique of any I have treated elsewhere in this project, yet the novel also presents arguably the most trenchant rewriting of the standard use of that topos. For much of the novel, there are no named spirits or ghosts, and none of its Native characters are figured as particularly ghostly; if anything, they are the opposite in their rhetoric of persistence and their visibility to the novel’s European-descended characters, who are by and large suspicious and frightened of Native people. However, the novel places special emphasis on ancestors.

For much of the novel, these ancestors exist only in stories, particularly those stories told by the keepers of the Alamanc, Lecha and Zeta. However, near the novel’s end the ancestors become shockingly present and have tangible effects on the novel’s

outcome. The presence and power of the ancestors is perhaps most clearly articulated in the novel by the “poet lawyer” Wilson Weasel Tail, who had “abandoned law school because the deck was stacked, and the dice were loaded, in the white man’s law” (714)—another bastion of recognition-rejection—and with whom Lecha has consulted about the Almanac. Weasel Tail manages to get slotted into a daytime television lineup, and tells a story about the historical Ghost Dance Movement, and his incantations invoke, and perhaps even raise the angry ancestors who would take back Indian land on North American soil. Weasel tail insists that the Ghost Dance was “to reunite living people with the spirits of beloved ancestors lost in the five-hundred-year-war,” spirits that would guide resistance against European invasion.

It is no accident that the Silko conjures the Ghost Dance as a means through which spirits might effectively regain Native lands. The Ghost Dance was a messianic movement promulgated by Paiute prophet Jack Wilson. Wilson traveled among Plains tribes spreading the Ghost Dance religion, the message of which was that if the people did a dance he called the Ghost Dance, and lived a “clean, honest life,” several outcomes would occur. (Wilson) First, dancers would be visited by their ancestors while dancing, and would receive guidance and encouragement from them. Secondly, Wilson believed that if every North American Indian community could be persuaded to dance, “the great expression of faith and love would sweep evil from the earth, renewing goodness in every form, from youth and health to abundant food (Kehoe 7). Alice Kehoe’s generative text about the movement, *The Ghost Dance: Ethnohistory and Revitalization*, combines in-person interviews with Native elders with historical analysis to argue that despite the peaceful approach of the religion, the United States

government quickly came to perceive it as a subversive threat. Likewise, some Native communities saw the religion as a way to expunge white people and institutions, identifying them with the evil that must be eradicated by dancing.

Following a scholarly convention that continues today, Kehoe (whose book arrived in 1989) sees the formal end of the Ghost Dance movement coming with the massacre at Wounded Knee, in which military forces whipped into paranoia in part by the Ghost Dances that had occurred there slaughtered a whole community. However, Kehoe goes on to examine the lasting legacies of the movement among Native people, and it is this legacy that Silko taps in *Almanac* to suggest that, though the Ghost Dance was suppressed through military violence, it was only a small part of an ongoing effort among Native people to rid the continent of European institutions. Unlike most scholarly approaches to the dance, Silko suggests that the Ghost Dance is ongoing, and might yet be an effective antidote to colonialism.

Wilson Weasel Tail, for example, revises the Ghost Dance's history (as well as the whole history of legal and cultural colonization), demanding an interpretation of the Ghost Dance as a successful movement to enlist the help of ancestral spirits. He claims that the Ghost Dance "never ended" and that in fact has been remarkably effective, though unrecognized, since its inception. The spirits it has revived are numerous and angry, but not in the generalized way of the familiar "Indian ghost" who is the projection of white guilt. "The Spirits are outraged! They demand Justice! The spirits are furious!" (723) Weasel Tail explains. These spirits demand more than guilt and sublimation, and in fact exact European-American lives in a pattern of revenge; in fact, the spirits to which he refers even wreak vengeance on Native people who have

not fought colonization and subsequent westernization. Weasel Tail argues this point at length:

To all those humans too weak or too lazy to protect Mother Earth the spirits say, “Too bad you did not die fighting the destroyers of the earth because now *we* will kill you for being so weak...the spirits will harangue you, they will taunt you until you are forced to silence the voices with whiskey day after day. The spirits allow you no rest. The spirits say die fighting the invaders or die drunk. (723)

Here Weasel Tail reimagines a systemic problem in Indian Country—alcoholism—as the work of unmerciful ancestral spirits. Though alcohol distribution and regulation in Indian Country has a whole history of legal regulation associated with Indian Country’s legal definition through the Trade and Intercourse Act<sup>45</sup>, to insist that alcoholism is in fact the work of unsatisfied ancestors reconceptualizes the problem in a Native frame and expands discussion of it beyond public health and into the realms of the spiritual and political; you might call Silko’s ghosts “activist ancestors.” Importantly, these spirits haunt not only Native people with whose actions they are unsatisfied, but cause devastation among Euro-Americans without their knowledge:

The enraged spirits haunted the dreams of society matrons in the suburbs of Houston and Chicago. The spirits had directed mothers from country club neighborhoods to pack the children in the car and drive off

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<sup>45</sup> A history that is too long to rehearse here. See Baker, Mark T. "The Hollow Promise of Tribal Power to Control the Flow of Alcohol into Indian Country." *Virginia Law Review* 88.3 (2002): 685-737. Web.



hundred-foot cliffs or into flooding rivers, leaving no note for the husbands...The spirits whisper in the brains of loners, the crazed young white men with automatic rifles who slaughter crowds in shopping malls or school yards as casually as hunters shoot buffalo. All day the miner labors in tunnels underground, hacking out ore with a sharp steel or hand-pick; he returns home to his wife and family each night. Then suddenly the miner slaughters his wife and children. The “authorities” call it “mental strain” because he has used his miner’s hand-pick to chop deep into the mother lode to reach their hearts and brains. (723)

For non-Natives, it becomes nearly impossible to tell what is and isn’t the work of angry Native spirits; in fact the suggestion is that everything fractured or sick in Anglo-America is the result of their intervention. The notion that angry Native ancestral spirits have such vast influence is both a way of claiming Native power and a commentary on the figure of the Native ghost in American letters. The paragraph turns on its head the that classic trope of the American imaginary, the haunted Indian burial ground. Perhaps best demonstrated in Steven King’s *Pet Sematary*, the Indian burial ground haunts the American imaginary from campfire stories to horror movies.<sup>46</sup> Its basic proposition is that in places where Native people buried their dead (a generalized practice in which many Indigenous North American tribes never even participated), bad things happen to Anglo-Americans who trespass. As it is typically employed, the Indian burial ground is the *sine qua non* of the Native ghost, and operates precisely to displace Anglo-American guilt about Native genocide by physically containing it in

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<sup>46</sup> See, for example, *The Amityville Horror* and the film adaptation of *Pet Sematary*.

certain “haunted” places; in doing so, it suggests that the disruptions of colonialism were similarly contained. Colonial violence is minimized to the placement of, say, a building or amusement park on “sacred” ground, obscuring the systemic militaristic and then legal violence affecting Native communities. The Indian burial ground simultaneously achieves another goal common to the fictional portrayal of Native ghosts: it effectively places Native American people in a misty historical past, safely confining colonial violence also in *time*, and abdicating any ongoing effects or responsibility to Native communities.

Weasel Tail’s description of Native ghosts acting on a large scale to damage Anglo-American lives and businesses, however, refuses the displacement of the Indian burial ground and insists instead that angry Indian ghosts are everywhere on the North American continent. His insistence is another way of redefining Indian Country, in both law and literature. Certainly the suggestion that “activist” Native ancestors are everywhere creating political and social realities is a firm refusal of the metaphorical containment of colonial violence to particular haunted places. Likewise, it is a reminder that “Indian Country” is a cramped and restricted relic of what once belonged to Native North Americans: the entire continent. Viewed in this frame, it becomes impossible not to acknowledge that the legal definition of Indian Country is contingent upon the legacy of colonial violence and its ongoing operation in the law. To realize this is to realize that a definition as seemingly cut and dried as Title 18 is in fact a living trace of colonialism, and that the occupation of Indian land was, along with slavery, an “original sin” of U.S. nation-building.

The examples above place dual emphasis on the quotidian nature of ancestral haunting as well as its vast scope and frightening power. A reader is left with the impression that there is no part of American life untouched by Native ghosts, and that every act of violence enacted by and against European Americans is informed by their presence. Something as seemingly insulated as domestic violence or familicide is invoked as the vengeful work of ancestral spirits. The heavily politicized and seemingly unrelated phenomena of reservation alcoholism and mass shootings are characterized as part of the same spectrum of vengeance for the theft of Native land.

In fact, Bergland also acknowledges that Silko revises the topos of the Native ghost, and ends her monograph with a close reading of the “sixty million dead souls” that haunt the American landscape in *Almanac of the Dead*. Though her treatment of the novel is a cursory part of her conclusion, the reading she provides is telling:

The ghosts that Silko describes in *Almanac of the Dead* rage against injustice. They thirst for blood and they hunger for earth. They are powerful specters, and when the novel works, it convinces its readers that when Native ghosts join forces with living Native people, they will change political realities. When the angry ghosts of the *Almanac* are read alongside the restorative ghosts of [Silko’s earlier novel] *Ceremony*, it becomes clear that the metaphors of Native spectrality can work to empower Native people and to challenge United States hegemony. But this possibility does not lessen the power of...the long nationalist tradition in American letters. Native Americans construct ghosts that call for the return of the land, for justice, and for the wholeness of stories and

of memory, but in the minds of white men, Native American ghosts continue to create political amnesia and a nationalist imaginary that locates all Native people within the white American self, and authorizes the theft of Native land. (169)

Bergland is correct that Silko's ghosts work to "change political realities." But she is too quick to downplay the transformative labor of a novel such as this one within the fields of Native Studies and Literary Studies in general. *Almanac* insists, in part, that we, as readers and as political actors, *do not* have to rehearse and recapitulate, over and over, the tired narratives of Manifest Destiny and the "political amnesia" that accompanies it. To do so is also a tangible blow against the structure of settler colonialism itself, which, as Patrick Wolfe has put it, "destroys to replace" (Wolfe 388). Silko's ghosts, far from passive reminders of the twinned violences of colonialism and capitalism, actively work to oppose and dismantle them. Just as Silko's activist armies "make a thing unprofitable and watch the white man leave," her activist ancestors "can make a wagon heavier for the horses to pull. The ghosts pile into the wagon. They weigh twice or three times what they weighed in life. The body carries the weight of the soul all the life, but with the body gone, there's nothing to hold the weight anymore." (191)

Metaphorically, the wagon might represent the entire imperialist project in the United States. The ancestors' role in Silko's novel is to guide living Indigenous people who seek to reveal that U.S. settler colonialism, as codified in law and expressed through capitalist enterprises that exploit Indian land and lives, is untenable. At the same time, framing political change as motivated by the wishes of ancestors represents

an attempt to renarrativize North American history through Native storytelling. To take that attempt seriously is to actively refuse a paradigm under which Native ghosts are always already white projections, and to “retake” American literature in the same way Silko’s armies retake American land; Silko’s ghosts demand not only the action of the novel’s characters, but also of its readers.

It is appropriate to end this analysis with a close reading of two of “poet lawyer” Wilson Weasel Tail’s poems encapsulating the climactic action of novel, in which it seems inevitable that the prophecies of the Almanac will indeed come to fruition and a full-scale remapping of the U.S., reclaimed as Indian Country, is an immediate possibility. As Eric Cheyfitz has written in a reading that intersects with this one, “Weasel Tail’s anti-colonial poem...invokes the colonial history of the US translation of non-alienable Indian communal lands into property; and ongoing Indian resistance to this imperial process of translation” (Cheyfitz 424).<sup>47</sup> The poems also summarize many of the arguments I have been making here regarding the renarrativization and remapping of Indian Country achieved by the novel. Of the first poem, the first half is reproduced below, in which Weasel Tail suggests the inevitability of the radical re-spatialization Indian Country:

Only a bastard government  
Occupies stolen land!

Hey, you barbarian invaders!  
How much longer?

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<sup>47</sup> I treat the first half of the poem here, alongside a second Weasel Tail poem. For a reading of the entire poem in the context of the historical legal contexts it invokes, see Cheyfitz, Eric. “The (Post)Colonial Predicament of Native American Studies.” *Interventions* 4.3 (2002): 405-27. Web.

You think colonialism lasts forever?  
*Res ipsa loquitur!*  
Cloud on title  
Unmerchantable title  
Doubtful Title  
Unquiet Title  
Unclear title  
Adverse title  
Adverse possession  
Wrongful possession  
Unlawful possession!

Though several poems would have equally demonstrated and summarized my points in this chapter (Weasel Tail is particularly prolific as the novel draws to a close), the poem reproduced here succinctly encompasses the literary and legal stakes that Silko defines in *Almanac*, as well as her entwining of land, law, and spectral Native presence. But first it is important to note that Weasel Tail himself, as a “poet lawyer,” emblemizes the novel’s renarrativization of the colonial story in the U.S. by rejecting a narrowly constructionist view of the law in favor of an interpretive one that imbues legal terms of art with poetry and resistant political power. At the same time, his poem enacts the re-spatialization of Indian Country itself through its juxtaposition of notions of “title” and “world.”

The first of these points is illustrated in the poem reproduced above through Weasel Tail’s deployment of particular legal terms of art in an ironic, and even combative way. Beginning with an apostrophe to the “bastard government,” representative of the “barbarian invaders” that stole Native land, the first half of the poem uses that very government’s legal language to indict its treatment of Native people. *Res ipsa loquitur* (literally, “the thing speaks for itself,”), for example, is the

(western) legal principle describing an event in which the occurrence of an accident implies negligence. Weasel tail activates both of these definitions to suggest both that the United States government is responsible for the long-denied effects of colonialism on Native people *and* that such an interpretation is self-evident, suggesting the inevitability of a large-scale reckoning.

Weasel Tail goes on to invoke a long list of legal obstacles to clear title, implicating those same “barbarian invaders” in the theft of Indian land using the very language of the mechanism—property law writ large—that was used to seize it. Beginning with the sweeping and poetic “cloud on title,” which includes any irregularity or bar to clear title, Weasel Tail lists increasingly antagonistic obstacles to title before arriving at “unlawful possession” – an indictment of the U.S.’s claim to Indian Territory. Each of the terms that comes before it raises a slightly different legal question about the validity of U.S. occupation of Indian land; “unmerchantable title” evoking the trust doctrine and the exclusive right of the U.S. government to buy land in Indian Country, “adverse title” sarcastically suggesting that the U.S.’s claim to title by conquest falls afoul of property law, since the land was already “owned” by pre-contact tribes.

In the middle of the list is the term “unquiet title.” Reversing what is known as “quiet title” or “quiet claim,” which is an action brought to remove a cloud on title, this term suggests restlessness and dissatisfaction, and presages a later poem in which he predicts that “a spirit army is approaching.” The result is the suggestion that the unlawful seizure of Indian Country is directly responsible for the un-rest the novel imagines, and that disturbance is caused by spirits, who cannot themselves rest in the

knowledge that Indian land has been occupied by the “bastard government” to whom the poem addresses itself. That later poem reads as follows:

The spirit army is approaching,  
The spirit army is approaching,  
The whole world is moving onward,  
The whole world is moving onward.

The whole world is coming,  
A nation is coming, a nation is coming,  
The Eagle has brought the message to the tribe,  
The father says so, the father says so.

Over the whole earth they are coming.  
The buffalo are coming, the buffalo are coming,  
The Crow has brought the message to the tribe,  
The father says so, the father says so.

I'yehe'! ana'nisa'na' — Uhi'yeye'heye'!  
I'yehe'! ana'nisa'na' — Uhi'yeye'heye'!  
I'yehe'! ha'dawu'hana' — Eye'ae'yuhe'yu!  
Ni'athu'-a-u'a'haka'nith'ii — Ahe'yuhe'yu!

[Translation]  
I'yehe'! my children — Uhi'yeye'heye'!  
I'yehe'! my children — Uhi'yeye'heye'!  
I'yehe'! we have rendered them  
desolate-- Eye'ae'yuhe'yu!  
I'yehe'! we have rendered them  
Desolate-- Eye'ae'yuhe'yu!  
The whites are crazy — Ahe'yuhe'yu!

The poem above contributes to the work of re-narrativization I have been describing above. The poem contextualizes the novel's political action within the realm of traditional Native storytelling with the claims that the Eagle and the Crow brought messages to the tribes, and that the result (much like the results of the historical Ghost Dance) will be a return of the buffalo as well as the return of a “nation” of ancestors.



The transition from European context (an incantation of western property law) to Indigenous frame is completed by the end of the poem, with an only partially translated intonation that bespeaks a Native victory over the “crazy” whites who have invaded. Such a victory, which would leave whites “desolate,” indicates the remapping that accompanies the novel’s re-narrativization. Once the promise of the poem has been fulfilled, Indian land will be restored; the result for non-Indians can only be desolation.

Thus the novel’s message—of retelling the story of Indigenous America and re-visualizing its physical and psychic spaces—is equally a radical departure from the American topos of the Indian ghost and a radical critique of the dispossessions effected by federal Indian law. Part of this radicalism is the sheer effectiveness of the spirits, over and against the futility of ghostly Native projections of Anglo-American guilt. In *Almanac of the Dead* once the spirits, the ancestors, are involved, victory is inevitable. As Angelita La Escapía realizes, “tribal people would retake the Americas; tribal people would retake ancestral land all over the world. This was what earth’s spirits wanted: her indigenous children who loved her and did not harm her” (712).

## REFERENCES

- 18 U.S. Code § 1151 - Indian Country Defined." *LII / Legal Information Institute*. Cornell University Law School, n.d. Web. 01 July 2016.
- 30 U.S. (5 Peters) 1 (1831)
- Ammons, Elizabeth. *Brave New Words: How Literature Will save the Planet*. Iowa City: U of Iowa, 2010. Print.
- Bellin, Joshua David. *The Demon of the Continent: Indians and the Shaping of American Literature*. Philadelphia: U of Pennsylvania, 2001. Print.
- Bergland, Renée L. *The National Uncanny: Indian Ghosts and American Subjects*. Hanover, NH: Dartmouth College, 2000. Print.
- Certeau, Michel De., and Steven Rendall. *The Practice of Everyday Life*. Berkeley: U of California, 1984. Print.
- Cheyfitz, Eric. "The (Post)Colonial Predicament of Native American Studies." *Interventions* 4.3 (2002): 405-27. Web.
- Coulthard, Glen Sean. *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*. Minneapolis: U of Minnesota, 2014. Print.
- "Definition of Indian Country." *EPA*. Environmental Protection Agency, 29 Mar. 2016. Web. 09 July 2016.
- Dimock, Wai-chee, and Michael T. Gilmore. *Rethinking Class: Literary Studies and Social Formations*. New York: Columbia UP, 1994. Print.
- Fanon, Frantz. *Black Skin, White Masks*. London: Pluto, 1986. Print.
- Huhndorf, Shari M. *Mapping the Americas: The Transnational Politics of Contemporary Native Culture*. Ithaca: Cornell UP, 2009. Print.
- Hunt, Alex. "The Radical Geography of Silko's 'Almanac of the Dead'" *Western American Literature* 39.3 (2004): 256-78. Web.
- Kehoe, Alice Beck. *The Ghost Dance: Ethnohistory and Revitalization*. New York: Holt, Rinehart, and Winston, 1989. Print.

- Mcclintock, Anne. "Imperial Ghosting and National Tragedy: Revenants from Hiroshima and Indian Country in the War on Terror." *PMLA* 129.4 (2014): 819-29. Web. 20 June 2016.
- Silko, Leslie Marmon. *Almanac of the Dead: A Novel*. New York: Penguin, 1992. Print.
- Tillett, Rebecca. *Howling for Justice: New Perspectives on Leslie Marmon Silko's Almanac of the Dead*. Tucson, AZ: U of Arizona, 2014. Print.
- Wilson, Jack. "Wovoka's Message: The Promise of the Ghost Dance." *New Perspectives on the West*. PBS, n.d. Web. 1 July 2016.
- Wolfe, Patrick. "Arabic Translation: Settler Colonialism and the Elimination of the Native (2006)." *Settler Colonial Studies* 2.1 (2012): 226-52. Web